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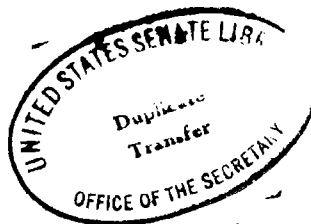
OF

THE CONGRESS OF THE UNITED STATES.

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ELEVENTH CONGRESS.—THIRD SESSION.

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THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

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ELEVENTH CONGRESS—THIRD SESSION.  
COMPRISING THE PERIOD FROM DECEMBER 3, 1810, TO MARCH 3, 1811,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:  
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.....  
1853.



# PROCEEDINGS AND DEBATES

OF

## THE SENATE OF THE UNITED STATES,

AT THE THIRD SESSION OF THE ELEVENTH CONGRESS, BEGUN AT THE CITY OF  
WASHINGTON, MONDAY, DECEMBER 3, 1810.

MONDAY, December 3, 1810.

The third session of the eleventh Congress, conformably to the Constitution of Government of the United States, commenced this day; and the Senate assembled at the City of Washington.

PRESENT:

NICHOLAS GILMAN and CHARLES CUTTS, from New Hampshire.

CHAUNCEY GOODRICH and SAMUEL W. DANA, from Connecticut.

JONATHAN ROBINSON, from Vermont.

OBADIAH GERMAN, from New York.

MICHAEL LEIB, from Pennsylvania.

OUTERBRIDGE HORSEY, from Delaware.

SAMUEL SMITH, from Maryland.

WILLIAM B. GILES, from Virginia.

JOHN GAILLARD, from South Carolina.

WILLIAM H. CRAWFORD and CHARLES TAIT, from Georgia.

JOHN POPE, from Kentucky.

ALEXANDER CAMPBELL, from Ohio.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

The number of Senators present not being sufficient to constitute a quorum, the Senate adjourned.

TUESDAY, December 4.

JOHN LAMBERT, from the State of New Jersey, ELISHA MATHEWSON, from the State of Rhode Island, and PHILIP REED, from the State of Maryland, severally attended.

The credentials of CHARLES CUTTS, appointed a Senator by the Legislature of the State of New Hampshire, in place of Nahum Parker, Esq., resigned; also, of SAMUEL W. DANA, appointed a Senator by the Legislature of the State of Connecticut, in place of James Hillhouse, Esq., resigned, were severally read; and the oath required by law was, by the PRESIDENT, administered to them, respectively.

*Ordered*, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business.

*Ordered*, That Messrs. SMITH, of Maryland,

and GILMAN, be a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives on their part, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled and ready to proceed to business. The House of Representatives have appointed a committee on their part, jointly, with such committee as may be appointed on the part of the Senate, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

On motion, by Mr. SMITH, of Maryland,

*Resolved*, That each Senator be supplied, during the present session, with three such newspapers printed in any of the States as he may choose, provided that the same be furnished at the usual rate for the annual charge of such papers: and provided, also, that if any Senator shall choose to take any newspapers other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

On motion, by Mr. SMITH, of Maryland,

*Resolved*, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

Mr. SMITH, of Maryland, submitted the following motion for consideration:

*Resolved*, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

Mr. GILES presented the petition of Larkin

Smith, Collector of the District of Norfolk and Portsmouth, in Virginia, praying additional compensation, for reasons stated at large in his petition; which was read, and referred to a select committee to consider and report thereon; and Messrs. GILES, CRAWFORD, and LEIB, were appointed the committee.

Mr. SMITH, of Maryland, reported from the joint committee that they had waited on the President of the United States, and that the President informed the committee that he would make a communication to the two Houses tomorrow, at 12 o'clock.

Mr. SMITH, of Maryland, gave notice that, tomorrow, he should ask leave to bring in a bill to suspend the second section of the "Act supplementary to the act, entitled 'An act regulating foreign coins, and for other purposes.'"

WEDNESDAY, December 5.

TIMOTHY PICKERING, from the State of Massachusetts, and STEPHEN R. BRADLEY, from the State of Vermont, severally attended.

#### PRESIDENT'S ANNUAL MESSAGE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate  
and House of Representatives:*

The embarrassments which have prevailed in our foreign relations, and so much employed the deliberations of Congress, make it a primary duty in meeting you to communicate whatever may have occurred in that branch of our national affairs.

The act of the last session of Congress concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, having invited, in a new form, a termination of their edicts against our neutral commerce; copies of the act were immediately forwarded to our Ministers at London and Paris, with a view that its object might be within the early attention of the French and British Governments.

By the communication received through our Minister at Paris, it appeared that a knowledge of the act by the French Government was followed by a declaration that the Berlin and Milan decrees were revoked, and would cease to have effect on the first day of November ensuing. These being the only known edicts of France within the description of the act, and the revocation of them being such that they ceased at that date to violate our neutral commerce, the fact, as prescribed by law, was announced by a proclamation, bearing date the second day of November.

It would have well accorded with the conciliatory views indicated by this proceeding on the part of France, to have extended them to all the grounds of just complaint which now remain unadjusted with the United States. It was particularly anticipated that, as a further evidence of just dispositions towards them, restoration would have been immediately made of the property of our citizens, seized under a misapplication of the principle of reprisals, combined with a misconstruction of the law of the United States. This expectation has not been fulfilled.

From the British Government, no communication

on the subject of the act has been received. To a communication, from our Minister at London, of a revocation, by the French Government, of its Berlin and Milan decrees, it was answered, that the British system would be relinquished as soon as the repeal of the French decrees should have actually taken effect, and the commerce of neutral nations have been restored to the condition in which it stood previously to the promulgation of those decrees. This pledge, although it does not necessarily import, does not exclude, the intention of relinquishing, along with the Orders in Council, the practice of those novel blockades, which have a like effect of interrupting our neutral commerce: and this further justice to the United States is the rather to be looked for, inasmuch as the blockades in question, being not more contrary to the established law of nations than inconsistent with the rules of blockade formally recognised by Great Britain herself, could have no alleged basis other than the plea of retaliation, alleged as the basis of the Orders in Council. Under the modification of the original orders of November, 1807, into the orders of April, 1809, there is, indeed, scarcely a nominal distinction between the orders and the blockades. One of those illegitimate blockades, bearing date in May, 1806, having been expressly avowed to be still unrescinded, and to be, in effect, comprehended in the Orders in Council, was too distinctly brought within the purview of the act of Congress not to be comprehended in the explanation of the requisites to a compliance with it. The British Government was accordingly apprized by our Minister near it, that such was the light in which the subject was to be regarded.

On the other important subjects depending between the United States and that Government, no progress has been made from which an early and satisfactory result can be relied on.

In this new posture of our relations with those Powers, the consideration of Congress will be properly turned to a removal of doubts which may occur in the exposition, and of difficulties in the execution, of the act above cited.

The commerce of the United States with the north of Europe, heretofore much vexed by licentious cruisers, particularly under the Danish flag, has latterly been visited with fresh and extensive depredations. The measures pursued in behalf of our injured citizens, not having obtained justice for them, a further and more formal interposition with the Danish Government is contemplated. The principles which have been maintained by that Government in relation to neutral commerce, and the friendly professions of His Danish Majesty towards the United States, are valuable pledges in favor of a successful issue.

Among the events growing out of the state of the Spanish monarchy, our attention was imperiously attracted to the change developing itself in that portion of West Florida which, though of right appertaining to the United States, had remained in the possession of Spain, awaiting the result of negotiations for its actual delivery to them. The Spanish authority was subverted, and a situation produced exposing the country to ulterior events which might essentially affect the rights and welfare of the Union. In such a conjuncture I did not delay the interposition required for the occupancy of the territory west of the river Perdido, to which the title of the United States extends, and to which the laws provided for the Territory of Orleans are applicable. With this view, the proclamation, of which a

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*President's Annual Message.*

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copy is laid before you, was confided to the Governor of that Territory, to be carried into effect. The legality and necessity of the course pursued, assure me of the favorable light in which it will present itself to the Legislature, and of the promptitude with which they will supply whatever provisions may be due to the essential rights and equitable interests of the people thus brought into the bosom of the American family.

Our amity with the Powers of Barbary, with the exception of a recent occurrence at Tunis, of which an explanation is just received, appears to have been uninterrupted, and to have become more firmly established.

With the Indian tribes, also, the peace and friendship of the United States are found to be so eligible that the general disposition to preserve both continues to gain strength.

I feel particular satisfaction in remarking that an interior view of our country presents us with grateful proofs of its substantial and increasing prosperity. To a thriving agriculture, and the improvements related to it, is added a highly interesting extension of useful manufactures, the combined product of professional occupations and of household industry. Such, indeed, is the experience of economy, as well as of policy, in these substitutes for supplies, heretofore obtained by foreign commerce, that, in a national view, the change is justly regarded as, of itself, more than a recompense for those privations and losses, resulting from foreign injustice, which furnished the general impulse required for its accomplishment. How far it may be expedient to guard the infancy of this improvement in the distribution of labor by regulations of the commercial tariff, is a subject which cannot fail to suggest itself to your patriotic reflections.

It will rest with the consideration of Congress, also, whether a provident, as well as fair encouragement, would not be given to our navigation by such regulations as would place it on a level of competition with foreign vessels, particularly in transporting the important and bulky productions of our own soil. The failure of equality and reciprocity in the existing regulations on this subject operates, in our ports, as a premium to foreign competitors; and the inconvenience must increase as these may be multiplied, under more favorable circumstances, by the more than counter-vailing encouragements now given them by the laws of their respective countries.

Whilst it is universally admitted that a well instructed people alone can be permanently a free people, and while it is evident that the means of diffusing and improving useful knowledge form so small a proportion of the expenditures for national purposes, I cannot presume it to be unseasonable to invite your attention to the advantages of superadding to the means of education, provided by the several States, a seminary of learning, instituted by the National Legislature, within the limits of their exclusive jurisdiction, the expense of which might be defrayed or reimbursed out of the vacant grounds which have accrued to the nation within those limits.

Such an institution, though local in its legal character, would be universal in its beneficial effects. By enlightening the opinions, by expanding the patriotism, and by assimilating the principles, the sentiments, and the manners, of those who might resort to this temple of science, to be redistributed, in due time, through every part of the community, sources of jeal-

ousy and prejudice would be diminished, the features of national character would be multiplied, and greater extent given to social harmony. But, above all, a well constituted seminary, in the centre of the nation, is recommended by the consideration that the additional instruction emanating from it would contribute not less to strengthen the foundations than to adorn the structure of our free and happy system of Government.

Among the commercial abuses still committed under the American flag, and leaving in force my former reference to that subject, it appears that American citizens are instrumental in carrying on a traffic in enslaved Africans, equally in violation of the laws of humanity, and in defiance of those of their own country. The same just and benevolent motives which produced the interdiction in force against this criminal conduct, will doubtless be felt by Congress in devising further means of suppressing the evil.

In the midst of uncertainties necessarily connected with the great interests of the United States, prudence requires a continuance of our defensive and precautionary arrangement. The Secretary of War and Secretary of the Navy will submit the statements and estimates which may aid Congress in their ensuing provisions for the land and naval forces. The statements of the latter will include a view of the transfers of appropriations in the naval expenditures, and the grounds on which they were made.

The fortifications for the defence of our maritime frontier have been prosecuted according to the plan laid down in 1808. The works, with some exceptions, are completed, and furnished with ordnance. Those for the security of the city of New York, though far advanced towards completion, will require a further time and appropriation. This is the case with a few others, either not completed, or in need of repairs.

The improvements, in quality and quantity, made in the manufacture of cannon and of small arms, both at the public armories and private factories, warrant additional confidence in the competency of these resources for supplying the public exigencies.

These preparations for arming the militia having thus far provided for one of the objects contemplated by the power vested in Congress with respect to that great bulwark of the public safety, it is for their consideration whether further provisions are not requisite for the other contemplated objects of organization and discipline. To give to this great mass of physical and moral force the efficiency which it merits and is capable of receiving, it is indispensable that they should be instructed and practised in the rules by which they are to be governed. Towards an accomplishment of this important work, I recommend for the consideration of Congress the expediency of instituting a system which shall, in the first instance, call into the field, at the public expense, and for a given time, certain portions of the commissioned and non-commissioned officers. The instruction and discipline thus acquired would gradually diffuse through the entire body of the militia that practical knowledge and promptitude for active service which are the great ends to be pursued. Experience has left no doubt, either of the necessity or of the efficacy of competent military skill in those portions of an army, in fitting it for the final duties which it may have to perform.

The corps of engineers, with the Military Academy, are entitled to the early attention of Congress. The buildings at the seat fixed by law for the present academy are so far in decay as not to afford the neces-

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*President's Annual Message.*

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sary accommodation. But a revision of the law is recommended principally with a view to a more enlarged cultivation and diffusion of the advantages of such institutions, by providing professorships for all the necessary branches of military instruction, and by the establishment of an additional academy at the Seat of Government or elsewhere. The means by which war, as well for defence as for offence, are now carried on, render these schools of the more scientific operations an indispensable part of every adequate system. Even among nations whose large standing armies and frequent wars afford every other opportunity of instruction, these establishments are found to be indispensable for the due attainment of the branches of military science which require a regular course of study and experiment. In a Government happily without the other opportunities, seminaries, where the elementary principles of the art of war can be taught without actual war, and without the expense of extensive and standing armies, have the precious advantage of uniting an essential preparation against external danger, with a scrupulous regard to internal safety. In no other way, probably, can a provision of equal efficacy for the public defence be made at so little expense, or more consistently with the public liberty.

The receipts into the Treasury during the year ending on the 30th of September last, (and amounting to more than eight millions and a half of dollars) have exceeded the current expenses of Government, including the interest on the public debt. For the purpose of reimbursing, at the end of the year, three millions seven hundred and fifty thousand dollars of the principal, a loan, as authorized by law, had been negotiated to that amount; but has since been reduced to two millions seven hundred and fifty thousand dollars; the reduction being permitted by the state of the Treasury, in which there will be a balance remaining at the end of the year, estimated at two millions of dollars. For the probable receipts of the next year, and other details, I refer to statements which will be transmitted from the Treasury, and which will enable you to judge what further provisions may be necessary for the ensuing years.

Reserving for future occasions, in the course of the session, whatever other communications may claim your attention, I close the present, by expressing my reliance, under the blessing of Divine Providence, on the judgment and patriotism which will guide your measures, at a period particularly calling for united councils, and inflexible exertions, for the welfare of our country, and by assuring you of the fidelity and alacrity with which my co-operation will be afforded.

JAMES MADISON.

WASHINGTON, December 5, 1810.

The Message and documents therein referred to were read, and five hundred copies thereof ordered to be printed for the use of the Senate.

Mr. SMITH, of Maryland, asked and obtained leave to bring in a bill to suspend the second section of the act, entitled "An act regulating foreign coins, and for other purposes;" and the bill was read, and passed to the second reading.

Mr. GILES presented the petition of the President, Directors, and Company, of the Farmers' Bank of Alexandria, praying a charter of incorporation, for reasons stated at large in the petition; which was read, and ordered to lie for consideration.

THURSDAY, December 6.

The number of Senators present not being sufficient to constitute a quorum, the Senate adjourned.

FRIDAY, December 7.

JOSEPH ANDERSON, from the State of Tennessee, attended.

The bill to suspend the second section of the act, entitled "An act regulating foreign coins, and for other purposes;" was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. SMITH, of Maryland, CRAWFORD, and DANA, were appointed the committee.

The Senate resumed the motion made on the 4th instant, for the appointment of Chaplains; and the further consideration thereof was postponed until Monday next.

On motion, by Mr. GILES,

*Resolved*, That so much of the Message of the President of the United States as concerns the relations between the United States and France and Great Britain, with the accompanying documents, be referred to a select committee to examine and report thereon to the Senate, and that the committee have leave to report by bill, bills, or otherwise.

*Ordered*, That Messrs. GILES, CRAWFORD, ANDERSON, GOODRICH, and POPE, be the committee.

The following motion was submitted by Mr. GILES:

*Resolved*, That so much of the Message of the President of the United States, as relates to the occupation of that part of West Florida which is included within the boundaries described by the treaty for the acquisition of Louisiana, with the accompanying documents, be referred to a select committee, with instructions to examine the same, and report thereon to the Senate; and that the committee have leave to report by bill, bills, or otherwise.

*Ordered*, That it lie until Monday next.

On motion, by Mr. SMITH, of Maryland,

*Resolved*, That so much of the Message of the President of the United States, as relates to the corps of engineers and Military Academy, be referred to a select committee, to report by bill, bills, or otherwise.

*Ordered*, That Messrs. SMITH of Maryland, GILMAN, BRADLEY, PICKERING, and REED, be the committee.

On motion, by Mr. GILES,

*Resolved*, That the petition of the President, Directors, and Company of the Farmers' Bank of Alexandria, praying a charter of incorporation, presented on the 5th instant, be referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise.

*Ordered*, That Messrs. GILES, LEIB, GOODRICH, CRAWFORD, and CUTTS, be the committee.

MONDAY, December 10.

Mr. LEIB presented the resolutions of the Legislature of the State of Pennsylvania, passed 18th March last, approving the measures pursued by

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the Administration of the United States, on our foreign relations; and the resolutions were read.

The Senate resumed the motion made the 4th instant, for the appointment of Chaplains; and on motion, by Mr. CRAWFORD, to amend the motion as follows:

"That a Chaplain shall be appointed to Congress during the present session, who shall perform divine service on the Sabbath day in the Representatives' Hall, and shall interchange weekly;"

It passed in the negative.

So it was *Resolved*, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

The Senate resumed the consideration of the motion submitted the 7th instant; and,

*Resolved*, That so much of the Message of the President of the United States, as relates to the occupation of that part of West Florida, which is included within the boundaries described by the treaty for the acquisition of Louisiana, with the accompanying documents, be referred to a select committee, with instructions to examine the same and report thereon to the Senate; and that the committee have leave to report by bill, bills, or otherwise.

*Ordered*, That Messrs. GILES, POPE, CRAWFORD, ANDERSON, and BRADLEY, be the committee.

On motion, by Mr. CAMPBELL,

*Resolved*, That so much of the Message of the President of the United States as relates to commercial abuses committed under the American flag, in carrying on an illegal traffic in enslaved Africans, be referred to a committee, to examine and report thereon to the Senate; and that the committee have leave to report by bill or otherwise.

*Ordered*, That Messrs. CAMPBELL, DANA, BRADLEY, CUTTS, and GILMAN, be the committee.

Mr. ANDERSON presented the petition of the President and Directors of the Bank of Potomac, praying a charter of incorporation, for reasons stated at large in the petition; which was read, and referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise; and Messrs. ANDERSON, GILMAN, TAIT, GOODRICH, and LEIB, were appointed the committee.

On motion, by Mr. GILMAN,

*Resolved*, That a committee be appointed agreeably to the 22d rule for conducting business in the Senate.

*Ordered*, That Messrs. CUTTS, HORSEY, and GILMAN, be the committee.

On motion, by Mr. LEIB,

*Resolved*, That a committee be appointed, agreeably to the 42d rule for conducting business in the Senate.

*Ordered*, That Messrs. LEIB, CAMPBELL, and DANA, be the committee.

TUESDAY, December 11.

RICHARD BRENT, from the State of Virginia, attended.

A message from the House of Representatives

informed the Senate that the House concur in the resolution of the Senate of the 10th instant, for the appointment of Chaplains, and have appointed the Reverend JESSE LEE Chaplain on their part.

On motion, by Mr. LEIB,

*Resolved*, That so much of the Message of the President of the United States as relates to the organization and discipline of the militia, be referred to a committee, with leave to report by bill or otherwise.

*Ordered*, That Messrs. LEIB, REED, SMITH of Maryland, ANDERSON, and GILMAN, be the committee.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill to suspend the second section of the act, entitled "An act regulating foreign coins, and for other purposes," reported it without amendment.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

WEDNESDAY, December 12.

The VICE PRESIDENT of the United States resumed the Chair.

JESSE FRANKLIN, from the State of North Carolina, also took his seat in the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I lay before Congress, and recommend to their early attention, a report of the Secretary of State, from which it will be seen that a very considerable demand beyond the legal appropriations, has been incurred for the support of seamen distressed by seizures, in different parts of Europe, of the vessels to which they belonged.

JAMES MADISON.

DECEMBER 12, 1810.

The Message and report were read, and referred to a select committee, to consider and report thereon; and Messrs. FRANKLIN, CRAWFORD, and GOODRICH, were appointed the committee.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, prepared in obedience to the act, entitled "An act to establish the Treasury Department," which, together with the accompanying documents, were read, and ordered to lie for consideration.

Mr. CUTTS, from the Committee on Enrolled Bills, reported the bill to suspend the second section of the act, entitled "An act regulating foreign coins, and for other purposes," correctly engrossed; and the bill was read the third time, and on motion, by Mr. SMITH of Maryland, it was agreed, by unanimous consent, to strike out the word "for," incorrectly quoted from the original bill.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act to suspend the second section of the act, entitled 'An act regulating foreign coins, and for other purposes.'"

Mr. BRENT presented the petition of the stockholders of the Bank of Washington, praying a charter of incorporation, for reasons stated at large in the petition. He also presented the me-

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*The Militia.*

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memorials of sundry citizens of Washington county on the same subject; which were read, and referred to Messrs. ANDERSON, GILMAN, TAIT, GOODRICH, and LEIB, the committee to whom was referred, on the 11th instant, a petition of the President and Directors of the Bank of Potomac, to consider and report thereon by bill or otherwise.

On motion, by Mr. BRADLEY, the Senate proceeded to the election of a Chaplain on their part, in pursuance of the resolution of the two Houses; and, on counting of the ballots, it appeared that the Reverend WALTER D. ADDISON had a majority, and was accordingly elected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the transportation of certain documents free of postage," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

THURSDAY, December 13.

HENRY CLAY, from the State of Kentucky, took his seat in the Senate.

The bill, entitled "An act to authorize the transportation of certain documents free of postage," was read the second and third time, by unanimous consent, and passed.

Mr. LEIB submitted the following motion:

*Resolved*, That a committee be appointed to inquire into the expediency of directing the Secretary of the Treasury to deposit, for collection, in other banks than that of the United States and its branches, the bonds given to the Government for duties; and that the committee have leave to report by bill or otherwise.

THE PRESIDENT communicated the report of the Secretary for the Department of Treasury, made in pursuance of the resolution of the Senate of the 25th of April, 1810; and also a report made in pursuance of the resolution of the Senate, of the 1st of May, 1810, on the subject of claims barred by the statute of limitations; together with an explanatory letter from the Register of the Treasury on the same subject; which were read, and ordered to lie for consideration.

FRIDAY, December 14.

The Senate resumed the consideration of the motion made yesterday on the subject; and

*Resolved*, That a committee be appointed to inquire into the expediency of directing the Secretary of the Treasury to deposit for collection in other banks than that of the United States and its branches, the bonds given to the Government for duties; and that the committee have leave to report by bill or otherwise.

*Ordered*, That Messrs. LEIB, CRAWFORD, and GOODRICH, be the committee.

Mr. GILES presented the memorial of the City Council of Washington, praying sundry amendments to their charter of incorporation; which

was read, and referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise; and Messrs. DANA, TAIT, GAILLARD, HORSEY, and GILES, were appointed the committee.

## THE MILITIA.

THE PRESIDENT communicated the report of the Secretary for the Department of War, made in obedience to the resolution of the Senate of April 7, 1810, directing him to prepare a system of regulations for improving the discipline of the militia of the United States; which was read, and referred to Messrs. LEIB, REED, SMITH of Maryland, ANDERSON, and GILMAN, the committee to whom was referred, on the 11th instant, so much of the Message of the President of the United States as relates to the organization and discipline of the militia, with leave to report by bill or otherwise.

The report is as follows:

WAR DEPARTMENT, December 13, 1810.

SIR: In obedience to a resolution of the honorable the Senate, passed April 7, 1810, "directing the Secretary of War to prepare a system of regulations for improving the discipline of the militia of the United States, comprehending the infantry, cavalry, and artillery, and to report the same to the Senate at the next session of Congress," the following regulations for the infantry, cavalry, and artillery, are herewith respectfully presented.

In determining on the regulations which it may be most eligible to establish for the government of the infantry, several considerations present themselves: first, the organization of companies, battalions, and regiments, as ordained by existing laws; secondly, the proficiency already made, with the experience acquired under the present system. Were the militia to be organized at this time from the population of the United States, and regulations to be adopted for their government and discipline, without regard to their present organization and discipline, the system of organization and tactics of the French armies would claim a preference. But the adoption of this system would require an entire new organization of companies, battalions, and regiments; and it is at least doubtful whether the officers of the militia would bestow, gratuitously, the time and attention necessary for their own, and the instruction of the men under their command, in the new and additional duties thus devolving on them.

The regulations prepared by the late Baron de Steuben, and ordered for the government of the troops of the United States by the Continental Congress, March 29, 1779, are acknowledged to contain the necessary instructions and directions for the discipline and government of an army, and have been the general rule of practice observed by the militia as well as the Army of the United States. It has therefore been judged expedient to continue these regulations as a basis, and to add to them such amendments and alterations as have been suggested by experience, with some manœuvres which make a part of more modern tactics. Should this proposal be adopted, the ordinance of March, 1779, as altered and amended, will require to be reprinted.

*For the government of the Cavalry.*—The ordinance for the exercise and manœuvres of the light cavalry of the French armies having all the advantages and improvements derived from long experience and actual service, appears to be well calculated. In order that a

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*Bank of the United States.*

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judgment may be formed of its merits, a translation of the whole of that ordinance, together with a volume of plates, explanatory of the directions, is herewith transmitted. In case it shall be approved, a revision of the work, by a person conversant with military science, will be necessary, in which the terms will be rendered analogous to our language; the whole may be abbreviated, and such parts as are not applicable to light cavalry may be entirely omitted.

*For the Artillery.*—"A compendious exercise for garrison and field ordnance," selected from the most approved authorities, by officers of experience, is proposed, and herewith reported for consideration.

All which is respectfully submitted

WILLIAM EUSTIS.

*Secretary of War.*

PRESIDENT of the Senate, &c.

MONDAY, December 17.

JAMES LLOYD, from the State of Massachusetts, took his seat in the Senate.

The PRESIDENT communicated the report of the Secretary of the Navy on moneys transferred, during the last recess of Congress, from certain appropriations for particular branches of expenditure in that department, and of the application of such moneys; also, his report showing the state and disposition, at this time, of the public vessels of war and gunboats; which were read for consideration.

TUESDAY, December 18.

JOHN CONDIT, from the State of New Jersey, and JOHN SMITH, from the State of New York, severally took their seats in the Senate.

Mr. LEIB presented the petition of William Davy and Son, and others, merchants and traders of Philadelphia, stating that they are owners of a large property beyond the Cape of Good Hope, and praying exemption from the provisions of the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" under which they are apprehensive the said property may be implicated; and the petition was read, and referred to Messrs. GILES, CRAWFORD, ANDERSON, GOODRICH, and POPE, the committee to whom was referred, on the 7th instant, so much of the Message of this President of the United States as concerns the relations between the United States and France and Great Britain, to consider and report thereon by bill or otherwise.

#### BANK OF THE UNITED STATES.

Mr. LEIB presented the petition of the President and Directors of the Bank of the United States, praying a renewal of their charter, for reasons therein stated; and the petition was read, and referred to a select committee, to consist of five members, to consider and report thereon; and that the petition be printed for the use of the Senate.

Messrs. CRAWFORD, LEIB, LLOYD, POPE, and ANDERSON, were appointed the committee.

The memorial is as follows:

*To the Senate and House of Representatives of the United States of America, in Congress assembled, the memorial of the Stockholders of the Bank of the United States, respectfully sheweth:*

That, by an act of Congress, passed on the 25th of February, 1791, the subscribers to the capital stock of the Bank of the United States, their successors and assigns, were incorporated for a term of years, which will expire on the 4th day of March next.

Aware of the evils which must result from the sudden termination of the operations of an institution, intimately and extensively connected with the commercial interests of the nation, with the public credit, and the fiscal concerns of the Government, your memorialists submitted to the tenth Congress, an application for the extension of their charter. The wisdom of Congress having, hitherto, declined a decision upon the subject, it becomes the duty of your memorialists again to submit to the legislative consideration, and to repeat their prayer, that the charter of incorporation under which they have hitherto existed, may be renewed.

Had your memorialists consulted merely their own convenience and security, under the uncertainty in which the success of their application has since that time remained, prudence would have required them gradually to call in their funds, as a measure of precaution, in case of a dissolution. But, considerations of public utility, which have always influenced the conduct of this institution, and a belief that the general interest required, and would, therefore, obtain a continuance of its incorporation, have postponed the adoption of a measure, in whatever manner effected, productive, as they apprehend, of great public as well as private distress.

The superior information of the Legislature renders it unnecessary for your memorialists to detail the general benefits of banking institutions. The experience and the practice of all nations, in modern times, sufficiently prove their utility to trade, their aid in the management of the national revenues, and their necessity in times of public emergency and general calamity. In no country have these benefits been more forcibly exemplified, or more fully experienced, than in the United States. The truth of this remark, is obvious in the amount of the productive capital of the country, above the quantity of the precious metals, in the rapid advancement of agriculture, manufactures, and commerce, the solidity of private as well as public credit, the ease with which the moneyed operations of the Government, of societies, and of individuals, to an immense amount are carried on; the accumulation of wealth, and the general prosperity of the nation. It is not intended to suggest, that the creation of banks has, of itself, produced these effects; the activity, the energy, and enterprise of the people, under the protection of a wise and able Government, have co-operated in their production; but, without the augmentation of the active capital of the country, and the other facilities to business produced by banking institutions, that activity, energy, and enterprise, would have but feebly operated. That the public opinion, the correct arbiter of the public interest, coincides with that of your memorialists, is evidenced by the institution and increase of banks in every State of the Union.

In producing these beneficial effects, your memorialists reflect with pleasure, that the Bank of the United States has contributed in an eminent degree. Its early institution, its extensive and combined operations, and the weight of its capital, at the same time that

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*Bank of the United States.*

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they afforded it the opportunity of being acquainted with the trading interests of the Union, gave it, also, the means of essentially advancing them, while its disposition to do so has always kept pace with its ability. Not restricted to any particular district, it has acted as the general guardian of commercial credit, and by preventing the balance of trade in the different States from producing a deficiency of money in any, has obviated the mischiefs which would have been thereby produced. It has fostered and protected the banking institutions of the States, and has aided them, when unexpectedly pressed; its disposition towards them is manifested in the quantum of its capital, of which they have generally had the use, not much less in amount than one tenth of the whole.

In its accommodations to individuals it has been liberal, but, at the same time, discreet, with a view as well to their safety as its own. By means of it, the merchant and the manufacturer have been enabled to push their operations to an extent far exceeding what would have been practicable without it; judicious and prudent enterprise has been encouraged, rash and prodigal adventure has been discountenanced, and a sufficient fund being provided, from which reasonable loans could be obtained, usury has been prevented, and usurious lenders repressed.

Its importance in the administration of the finances, and its utility in the operations connected with the public credit have been fully established.

It has afforded a place of deposit for the public moneys, without expense, and without hazard to the Government.

It has aided in the collection of the revenue, by introducing a punctuality in the payment of duties, otherwise unattainable, and by accommodating with loans those who had such payments to make; thereby assuming upon itself the risk, which otherwise had been borne by the Government.

It has, at all times, upon its own responsibility, and at its own expense, transmitted the public moneys from one part of the Union to another, so as to meet the exigencies of the Government, and, from the surplus revenue of one place, to supply the deficiency of another. By this means the Government has always been enabled, with convenience, to pay the interest on the public debt, and to meet its other demands, at such places as its engagements required; an operation which, without such an aid, would have been productive of trouble, hazard, and expense to the Government, and would still have been liable to disappointment.

It has, by its loans, enabled the Government to comply punctually with its engagements, when deficiencies or delays have occurred in the revenue, and has thus enabled it to maintain inviolate the public faith and credit, both at home and abroad. There have been periods when the nation found it necessary to borrow largely from this institution, and, at one time, had upon loan considerably more than three-fourth parts of its active capital.

It has, for the accommodation of the Government, established branches at places disadvantageous to its business, and from which no profit was expected to be derived.

Most of these operations have been attended with inconvenience, and with expense to the bank, but they have always been performed with alacrity and cheerfulness.

While your memorialists thus recount the aids they have afforded, they feel no disposition to forget the ad-

vantages they have received from the Government in return. The support which it has given to the bank, and the confidence which it has reposed in it, founded upon a knowledge of its management and condition; have conferred upon it a stability, a dignity, and a splendor, which have preserved its credit from suspicion, and have secured to it the confidence of Europe, as well as America.

Thus, mutually aiding and aided by the Government, has the Bank of the United States, for twenty years, continued its operations, and during that time, has obtained the general acknowledgment that its affairs have been conducted with honor and dignity, with impartiality and candor, with liberality and prudence.

To the original motives for the institution of this bank, the success of experiment is now added; and with the existing proofs of its uses and its services, every consideration of policy and of justice, urge its continuance. Independent of the positive evils its dissolution would produce to the community, the Government would at least be deprived of those advantages it has hitherto derived from its existence, unless they could be supplied from some other quarter, either by the banks established by the several States, or by a bank upon a foundation altogether new. As to the State banks, your memorialists are fully sensible of the benefits resulting from their establishment, and of their sufficiency for the purposes of their institution, the local accommodation of the places in which they exist. But their capitals are by no means adequate to the demands of the General Government, in a time of emergency; a time when the ordinary claims of their own State Governments, and of their own particular customers, would be increased and entitled to preference. Neither could the transmission of the public moneys, from one quarter of the Union to another, be effected with sufficient ease and dispatch, or to the requisite extent, by banks of limited capital, having no connexion with, nor direction over, each other.

Nor would it be prudent in the Government, to trust the deposit of its funds, to the extent to which they sometimes exist in a variety of institutions, united by no common bond, and in no degree responsible for each other; over whose conduct the General Government could have no control, into whose management and condition it could not legally inquire, and which those institutions, even if disposed, could not legally communicate. Independent of the hazard to which the public moneys might be subjected by mismanagement, a power would be placed in hands, which, from want of responsibility, and want of control, might be used to injurious purposes.

In addition, the dignity of the Government seems to require its fiscal operations to be conducted through the medium of an institution organized by itself, of whose ability to answer all the purposes of revenue and public credit, no doubt can exist; of whose situation and proceedings a competent knowledge can be had; over whose conduct a sufficient degree of control to prevent wilful misconduct should exist, and upon whose disposition to assist the Government in times of exigency, reliance may be confidently placed. Such an institution is the Bank of the United States, and such it will remain, if continued in its present form. The amount of its capital gives it sufficient power; its situation is periodically communicated to the Treasury Department: over its proceedings the Government possesses a powerful control, by the extent of its



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*Territory of Orleans.*

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deposits: of its disposition to yield every legitimate assistance to the Government, it has given the strongest evidences, and to insure the continuance of this disposition, its interest and its duty combine.

If a National Bank be thus conducive to the interests of the community, and of importance to the Government, no obvious motive suggests itself to your memorialists against the continuance of the present bank. At any time, and especially at the present, when so large a portion of American property remains unproductive in Europe, so great a reduction in the amount of the active capital of the country as the dissolution of the bank would occasion, must be attended with great and general injury, from the depreciation in value of property, the stagnation of business, and the check to commercial enterprise, which would result from it. And in stopping the operations of such an engine, one of two consequences must be produced, either that in discharging the debts due to the bank, great sacrifices must be made, and every resource of the merchant drained, or, in the failure to pay them, an irreparable blow must be given to commercial credit and punctuality.

Nor is it easy to calculate the effects, which the destruction of the bank would produce in the loss it would occasion to the public revenue, to charitable institutions, widows, children, and others, interested in the stock; from the pressure to which the other banks must be inevitably subjected, from the want of confidence it would create in the stability of our institutions, and from the general derangement of credit.

Under these views and impressions, your memorialists solicit the renewal of their charter; and upon the wisdom and justice of the Legislature, and its regard for the rights and interests of its citizens, they rely for its concession.

Signed on behalf of the stockholders.

DAVID LENOX, *President.*

PHILADELPHIA, Dec. 10, 1810.

### TERRITORY OF ORLEANS.

Mr. GILES, from the committee to whom was referred, on the 8th instant, so much of the Message of the President of the United States as relates to the occupation of that part of West Florida which is included within the boundaries described by the treaty for the acquisition of Louisiana, reported a bill declaring the laws now in force in the Territory of Orleans, to extend to and to have full force and effect to the river Perdido, pursuant to the treaty concluded at Paris on the 30th day of April, 1803, and for other purposes; and the bill was read, and passed to the second reading.

The following is the bill:

"That the Territory of Orleans, as described by an act, passed the twenty-sixth day of March, one thousand eight hundred and four, entitled 'An act erecting Louisiana into two Territories, and providing for the temporary government thereof,' shall be deemed, and is hereby declared, to extend to the river Perdido; and to include all that territory south of the Mississippi Territory, and eastward of the river Mississippi, to the said river Perdido, according to the provisions of the treaty concluded at Paris, between the United States and France, on the thirtieth day of April, one thousand eight hundred and three.

"Sec. 2. *And be it further enacted*, That all the

laws heretofore passed, and now in force in the Territory of Orleans, shall be deemed, and are hereby declared, to extend to and to have full force and effect in the territory described in the first section of this act.

Sec. 2. *And be it further enacted*, That for the purpose of more conveniently ascertaining the titles and claims to land within the territory described in the first section of this act, the same shall be formed into one district of the Territory of Orleans; and the President is hereby authorized and required to nominate, and, by and with the advice and consent of the Senate, appoint one register of land titles, who shall perform the duties, receive the same compensation for his services, and be subject, in all respects, to the same regulations and provisions, as are by law prescribed to the registers of the other districts of the Territory of Orleans.

Sec. 4. *And be it further enacted*, That the commissioners heretofore appointed, in virtue of the fifth section of the act, entitled 'An act for ascertaining and adjusting titles and claims to land within the Territory of Orleans, and the District of Louisiana,' shall meet within the aforesaid Territory, at such place as the President shall have directed therein for the residence of the register, on or before the — day of —, and they shall not adjourn to any other place, nor for a longer time than three days, until the — day of —, and until they shall have completed the business of their appointment: and it shall be their duty to decide, in a summary way, according to justice and equity, upon all claims filed with the register, conformably, in all respects, to the provisions now in force and observed in the Territory of Orleans; which decisions shall be laid before Congress in the same manner, as is now done in the other districts of the Territory of Orleans, and be subject to the determination of Congress thereupon."

WEDNESDAY, December 19.

CHRISTOPHER GRANT CHAMPLIN, from the State of Rhode Island, took his seat in the Senate.

The bill declaring the laws now in force in the Territory of Orleans, to extend to and to have full force and effect to the river Perdido, pursuant to the treaty concluded at Paris on the 30th day of April, 1803, and for other purposes, was read the second time.

Mr. DANA submitted the following motion for consideration:

*Resolved*, That a committee be appointed to inquire into the expedience of authorizing such surveys and examinations to be made respecting the lakes or waters, along the northern confines of the United States, as may conduce to the safety and convenience of communication thereon; and that the committee have leave to report by bill or otherwise.

THURSDAY, December 20.

The Senate resumed the consideration of the motion made yesterday on the subject; and

*Resolved*, That a committee be appointed to inquire into the expedience of authorizing such surveys and examinations to be made respecting the lakes or waters along the Northern confines of the United States, as may conduce to the safety and convenience of communication thereon;

and that the committee have leave to report by bill or otherwise.

*Ordered*, That Messrs. DANA, ROBINSON, CONDIT, BRADLEY, and FRANKLIN, be the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to fix the compensation of the additional Postmaster General," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

Mr. GILES, from the committee to whom was referred, on the fourth instant, the petition of Larkin Smith, Collector of the district of Norfolk and Portsmouth, in Virginia, reported a bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill declaring the laws now in force in the Territory of Orleans, to extend to and to have full force and effect to the river Perdido, pursuant to the treaty concluded at Paris on the 30th day of April, 1803, and for other purposes, and on motion, it was agreed that the further consideration thereof be postponed until tomorrow.

On motion, by Mr. DANA,

*Resolved*, That the President of the United States be requested to cause to be laid before this House a statement of the proceedings which have been had in execution of the act of the 10th of February, 1807, entitled "An act to provide for surveying the coasts of the United States."

On motion, by Mr. DANA,

*Resolved*, That the Secretary of the Treasury be directed to lay before this House information of such measures as have been pursued for making a survey of the coast of the Territory of Orleans, in virtue of the authority committed to him by the thirteenth section of an act, approved the 21st of April, 1806.

#### FRIDAY, December 21.

Mr. SMITH, of Maryland, presented the petition of the President and Directors of the Union Bank of Georgetown, praying a charter of incorporation, for reasons stated at large in the petition; which was read, and on motion that it be referred to the committee to whom was referred, on the 11th instant, the petition of the President and Directors of the Bank of Potomac, it was determined in the negative; and,

*Ordered*, That it be referred to Messrs. SMITH, of Maryland, ANDERSON, and PICKERING, to consider and report thereon by bill or otherwise.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of George Armroyd and Co." in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The bill, entitled "An act to fix the compensation of the additional Assistant Postmaster Gen-

eral," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, LEIB, and SMITH of Maryland, were appointed the committee.

The bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia, was read the second time.

The Senate resumed, as in Committee of the Whole, the bill declaring the laws now in force in the Territory of Orleans, to extend to and to have full force and effect to the river Perdido, pursuant to the treaty concluded at Paris on the 30th day of April, 1803, and for other purposes; and on motion, by Mr. LLOYD, that the bill declaring the laws now in force in the Territory of Orleans, to extend to and to have full force and effect to the river Perdido, pursuant to the treaty concluded at Paris on the 30th day of April, 1803, and for other purposes, be referred to a committee, with instructions to report their opinion on the title of the United States to the territory in question, and the grounds on which that opinion may be founded, it was determined in the negative—yeas 5, nays 17, as follows:

YEAS—Messrs. Dana, Goodrich, Horsey, Lloyd, and Pickering.

NAYS—Messrs. Anderson, Bradley, Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, Gilman, Lambert, Leib, Mathewson, Pope, Smith of Maryland, Smith of New York, and Tait.

On motion, by Mr. HORSEY, that the further consideration of the bill be postponed until Friday next, it passed in the negative. And, on motion, by Mr. ANDERSON, it was agreed that the further consideration of the bill be postponed until Wednesday next.

On motion, by Mr. HORSEY, that the President of the United States be requested to cause to be laid before the Senate, all the documents, papers, or other evidences in his possession, relating to the title of the United States to the territory south of the Mississippi Territory, and eastward of the river Mississippi to the river Perdido, and to the boundaries of the said territory, it was determined in the negative—yeas 7, nays 13, as follows:

YEAS—Messrs. Dana, Goodrich, Horsey, Lambert, Lloyd, Mathewson, and Pickering.

NAYS—Messrs. Anderson, Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, Leib, Pope, Smith of Maryland, Smith of New York, and Tait.

#### MONDAY, December 24.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers:'" also, a bill, entitled "An act making an additional appropriation to supply a deficiency in the appropriation for the relief and protection of distressed American seamen during the year one thousand eight hundred and ten;" in which bills they desire the concurrence of the Senate.

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*Petition of Importers, Philadelphia.*

SENATE.

The bills last brought up for concurrence were read, and passed to the second reading.

Mr. ANDERSON, from the committee on the subject, reported a bill to incorporate the Bank of Potomac. And the bill was read, and passed.

Mr. ANDERSON, from the same committee, also reported a bill to incorporate the Bank of Washington; which was read and passed to the second reading.

The bill, entitled "An act for the relief of George Armroyd and Company," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. LEIB, BRADLEY, and LLOYD, were appointed the committee.

On motion, by Mr. SMITH of Maryland, the bill, entitled "An act making additional appropriation for the relief and protection of distressed American seamen during the year one thousand eight hundred and ten," was read the second time by unanimous consent; and referred to the committee to whom was referred, on the 12th instant, the Message of the President of the United States of that date, on the same subject, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia; and on motion, by Mr. SMITH, of Maryland, the further consideration of the bill was postponed until the first Monday in January next.

Mr. POPE gave notice, that to-morrow he should ask leave to bring in a bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company.

#### PETITION OF IMPORTERS.

Mr. LEIB presented the petition of Samuel Carswell and others, merchants of the city of Philadelphia, stating that they are engaged in the importation of manufactured goods, and have ordered a supply for the coming season, which it is out of their power to countermand; and praying, if Congress shall deem it proper to enforce a non-intercourse with Great Britain, provision may be made by law authorizing the entry of goods imported from that country, to such date as will relieve them from the embarrassments apprehended and stated at large in the petition; which was read, and referred to the committee appointed on the 7th instant on so much of the Message of the President of the United States as concerns the relations between the United States and France and Great Britain, to consider and report thereon by bill or otherwise.

The petition is as follows:

*To the honorable Senate and House of Representatives of the United States, in Congress assembled, the petition of the subscribers, merchants of the City of Philadelphia, respectfully sheweth:*

That your petitioners, being merchants engaged in the importation of manufactured goods from other countries for the supply of this, would respectfully represent to Congress the peculiar embarrassments to

which they will be liable, by the expected revival of the non-intercourse with Great Britain. For this purpose, they beg leave to state the situation of this branch of trade with some particularity.

Many of your petitioners have, according to the usual course of business, sent orders to Great Britain for goods as early as August, and from that time to the middle of October. These orders, when received, are given out to manufacturers to execute; and the goods, when received from them and packed up, are on account and at the risk of the American merchant.

At the time when the President's proclamation was issued, the only precautionary measures, which time would permit your petitioners to take, were to direct the goods they had ordered not to be shipped. The goods will therefore remain at the risk of your petitioners, who, in cases where the goods are paid for, are deprived of the use of their capital, and in other cases will soon be subjected to a heavy charge of interest.

Your petitioners would further represent, that, in consequence of the increase of capital in this country, a material change, the extent of which is not generally understood, has taken place in the business of importing goods. Formerly, goods were imported almost exclusively on credit. The American merchant was a debtor; and, in fact, traded on foreign capital, and chiefly on that of Great Britain. But, in consequence of the great increase of capital in this city, and probably in other parts of the Union, not only is the old debt liquidated, but the importer is enabled to make advances for a great part of his importation. And your petitioners state, with confidence, that about one-third of the goods imported from Great Britain are paid for in advance.

This course of business is not only beneficial to the merchant, but to the country at large, which thereby obtains its supplies on better terms, and the advantages arising from it have made it habitual. Almost all your petitioners have remitted, in part, and some of them in full, for goods which are ordered to come out the ensuing Spring; and if the non-intercourse should be revived, with respect to Great Britain, on the first of February next, the country will not only be deprived of a considerable capital, but your petitioners, individually, be great sufferers, by having their property placed out of their power for an indefinite length of time.

Some of your petitioners are placed in circumstances which may operate with still greater severity against them. They have ordered goods which will have been shipped so early, that it was not possible to countermand them after the issuing of the President's proclamation; and which goods, by detention at the shipping port, by long passages, or accidents at sea, may not arrive until after the first of February, and of course may be liable to seizure and condemnation.

Wherefore, your petitioners, confiding in the equity of their Government, and in its attention to the interests of all classes of citizens, respectfully pray your honorable body to take into consideration the peculiar hardship of their case; and, if Congress shall deem it proper to enforce a non-intercourse with Great Britain, that a law may be passed authorizing the entry of goods imported from that country, to such date as will relieve your petitioners from the embarrassments before mentioned.

SAMUEL CARSWELL,

*And thirty-eight other subscribers.*

PHILADELPHIA, Dec. 11, 1810.

DECEMBER, 1810.

*Bank of the United States.*

SENATE.

## BANK OF THE UNITED STATES.

Mr. LEIB presented the memorial of the Chamber of Commerce of the city of Philadelphia, praying a renewal of the charter of the Bank of the United States, for reasons therein stated; and the memorial was read, and referred to the committee appointed on the 18th instant, to consider the petition of the President and Directors of the Bank of the United States on the same subject.

The memorial is as follows:

*To the Senate and House of Representatives of the United States, the memorial of the subscribers, members of the Chamber of Commerce of Philadelphia, respectfully represents:*

That your memorialists regard, with interest and concern, the approach of that period at which the charter of the Bank of the United States will expire; and that, from an intimacy with the institution, and an immediate knowledge of its direction; from a view of the interests plainly interwoven with its existence, and an anticipation of the ruin which must follow its dissolution, they are induced, on this occasion, to address you.

Your memorialists, in presenting to your view such considerations as they deem to be urgent for a renewal of the charter of the Bank of the United States, design to confine themselves to such facts, circumstances, and impressions, as are immediately within their own experience and observation. They are sensible that it would be unnecessary to urge upon your consideration any inducement for the continuance of the bank, which may be drawn from its convenience and aptitude to the financial operations of the Government; nor do they deem it proper to obtrude upon your deliberations arguments in favor of the Constitutional existence of an institution which for twenty years has had the support of Legislative and Judicial sanction, and the express respect of our united Confederacy. They are aware that these points are of the first importance, and that they, with every other national consideration connected with the question of renewal, will command your pointed attention. Their views simply are, to present before you such facts, connected with the interest of the citizen, and the well-being of the community, as, in their conception, lay the foundation for practical reasoning in favor of a prolongation of the charter.

The Bank of the United States derives its existence from an act of Congress, passed in February, 1791—coeval with the organization of the Government, and its arrangement of the system of revenue and finance. It had its origin, not from individual solicitation, interest, or speculation, but directly from the Government itself, and avowedly for its purposes. By the striking declaration in its charter, that "a Bank of the United States shall be established," and the still more striking provisions which it contains, in relation to the payment of three-fourths of its capital in the public debt—to the inspection of its accounts and transactions by the officer at the head of the Treasury—to the receipt of its bills or notes in all payments to the United States—to its loans to the government of a particular State, or a foreign Prince—by a direct investment of interest on behalf of the nation, to the extent of one-fifth of its capital—and by a positive pledge of the faith of Government, for its exclusive existence under the laws of the United States,—were impressed upon it the most unquestionable features of national character and lasting continuance. From its origin, its form, and its principles, its duration has been confidently trusted to,

in the purchase of its stock, in the establishment of similar institutions, and in the extension of commercial enterprise.

In the purchase of its stock, your memorialists regard, within the immediate sphere of their connexion and observation, an interest to the amount of one million of dollars in the citizens of Pennsylvania. This interest, extending to the proportion of one-tenth part of the capital of the bank, and, as is stated, to one-third part of the stock holden in the United States, has been principally invested at an advance upon the original subscription, which has been paid from faith in the management and confidence in the duration of the institution. This interest, in a large proportion also, it may truly be stated, is the property and dependence, invested upon a principle of security and confidence, of widows, orphans, and charitable associations. To stockholders of this description, the dissolution of the bank must inevitably produce a loss of income and interest to which they look for support, and of capital to an extent which no calculation can ascertain. And your memorialists cannot but think that a sacrifice of interest of such a description can never be required, and will never be made, but to answer national purposes the most important.

To the extent of nearly seven millions, your memorialists understand, the stock of the bank to be holden by foreigners, or persons not residing within the United States. That there has existed no objection, either of policy or propriety, on the part of the Government, to the holding of this stock by aliens, is evinced by the charter's containing no prohibition, and by the recent sale, directly to foreigners, of that portion of the stock holden by the United States. That this extensive interest has been invested from a firm reliance upon the continuance of the bank cannot be doubted. With what propriety and upon what foundation that reliance has been placed your memorialists do not undertake to decide, but content themselves with expressing their confidence that your wisdom and justice will scrupulously guard the faith of the Government from every imputation.

In the establishment of similar institutions under the sanction of the different State Governments, your memorialists conceive that there has been displayed a reliance upon the continuance of the Bank of the United States. In all parts of the Union, where this bank or its branches exist, other banking associations have been established, the interest and concerns of which are materially interwoven with the existence of the National Bank. In the city of Philadelphia, the capital of the banks, exclusive of that of the Bank of the United States, amounts to nearly six millions of dollars; in which the State of Pennsylvania has an interest to the amount of nearly two millions of dollars, and citizens of the State to almost the whole of the residue.

From the collection of the bonds for duties, at the Bank of the United States, it unavoidably results that there is in that bank a great and constant accumulation of the paper of the other banks. This cause, combined with its weight of capital and extensive deposits, has given to the Bank of the United States an obvious importance, in the connexion with other banks, which now renders its continuance almost indispensable to their safety; for, your memorialists are without fear of contradiction when they assert, that, if the Bank of the United States be dissolved, an effect extensively and deeply injurious will be felt by all other banking institutions within the range of its operations. In their

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apprehension, it is impossible that the Bank of the United States should exact payment from its debtors, and close its concerns, without its producing all the evils of prostrated credit and general delinquency. In these evils the other banks must largely share, and from them must most severely suffer.

Your memorialists; on this point, submit to your consideration, that neither the individuals who have thus extensively embarked their interests in other institutions, nor the governments which have brought them into being, and made them the depositories of the public wealth, could have ever contemplated their exposure to this incidental injury, or perhaps destruction, by the dissolution of the National Bank; and, even if such an exposure might have been contemplated, the event could only be anticipated to proceed from the most pressing public exigency, or a sure calculation of the greatest public gain.

In the extension of commercial enterprise, your memorialists present to your view, further and stronger evidence of reliance upon the continuance, of the bank. The establishment of the bank may justly be regarded as the era which marks the rise of commercial credit, confidence, and enterprise. A recurrence to the state of our country, antecedently to this establishment, will show the truth of the remark, and leave no doubt upon the mind, as to the instrumentality of the bank in effecting the change. The formation of the bank called into circulation a mass of torpid wealth, opened large and liberal sources of accommodation to enterprise, and enforced, and insured, punctuality in commercial dealing; the effect was soon and sensibly felt by the commerce and agriculture of the country, and its salutary character has been shown, in the general diffusion of confidence and prosperity. No sooner was the bank established upon that sure foundation, on which faith in its permanence and direction caused it to rest, than its stock advanced in value, and attracted a large amount of foreign capital to the country; from the introduction of this foreign capital, which was invested at a high advance, proceeded these important results; that the citizen realized a gain in the advance paid by the foreigner, and the country was enabled to trade upon the foreign capital at an interest below its market value. Other institutions rose upon the liberated capital of the citizen, and a general system of accommodation gave a spring to enterprise; the merchant, mechanic, and manufacturer, whose probity and industry inspired confidence, was enabled to obtain the means of exertion, and to extend his transactions. The borrowers have calculated with confidence upon a continuance of the loan, so long as they are deemed safe for its repayment, and have not anticipated a demand which may find them unprepared, and cost them a sacrifice of either property or credit.

It is upon this foundation, that extensive commercial and manufacturing concerns have arisen in the country; and large investments have been made upon the faith of a general credit. To dissolve the Bank of the United States, is not only to check, but to destroy, this credit, inasmuch, as not only that bank, but all others at all connected with it, must compel the payment of their debts. In such an event, it cannot be supposed that the debtors could find adequate resources to enable them to meet their engagements; and an extensive delinquency would mark the loss of the banks, and the destruction of credit.

Your memorialists are aware that it may be urged,

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that the limitation in the charter of the Bank of the United States was a standing admonition to the various interests connected with that institution, that a period was appointed for its legal existence, which it could not reasonably be expected to pass. From the existence of this limitation, open and notorious to all, it is argued, that no injustice can arise from the refusal of Government to grant a continuance of privileges, beyond the time for which they were originally conferred; but your memorialists are confident that they speak the language of general opinion, when they state, that the limitation was designed as a check, by which the institution might be controlled, as a guard against the mischiefs of a defective administration, or as a point of time when it might come to an end, if it were required, by decisive reasons of public necessity; but that it never was designed, and never has been received, as the period of its dissolution, if its administration was marked by ability, integrity, and impartiality, and its existence productive of public good.

To the administration of the bank, your memorialists freely yield the testimony of their decided approbation; so far as the transactions of the bank have been open to their observation, its direction has displayed a liberal desire to subserve the great objects of the institution, by diffusing, with impartiality, its accommodations to the greatest extent, compatible with its fundamental interests. It is but justice to this direction, further to add, that during the current year, a crisis of the greatest interest to the bank, as your memorialists fully believe, its accommodations have not been contracted within the limits appointed by sound considerations of safety and propriety.

How far the convenience of the Government may be affected by the dissolution, or by a material alteration of the bank, your memorialists do not undertake to declare; they entertain, however, the strongest persuasion, that considerations, not only of great convenience, but of necessity, as regards the interest of individuals, and the prosperity of the community, urge the continuance of the bank. On this point your attention is earnestly solicited to the existing state of the country; its unavoidable reliance upon accommodations from the banks; the use, convenience, and importance of the Bank of the United States, in its present form, to the community, and the evils which impend from its destruction.

In a view of the state of the country, at the present moment, as connected with this subject, the following particulars, they trust, will receive your attention: The commerce of the United States, from a combination of causes, has been, for a period of no inconsiderable duration, subject to great embarrassments. During the current year, this embarrassment has been much increased, and the merchant is laboring under the pressure of a heavy sequestration of property abroad, and a failure of resources at home. Of the property which is sequestered, a large proportion had long lain unproductively on the merchants' hands, and was exported with the hope of being converted into the means by which his engagements might be met. Under such circumstances, the reliance of many is necessarily upon a temporary use of the capital found in the banks, to which they have confidently trusted, as a resource, whilst their credit shall continue, and until their property shall be relieved.

In the current year the exportation of specie from the United States has been to its accustomed extent,

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and the importation has been inconsiderable in amount. This circumstance has, of course, tended to increase the embarrassment of the merchant, inasmuch as it has necessarily contracted his accommodations. From these causes it has resulted, that the demand for money is uncommonly great, and the means for supplying that demand are unusually limited.

In this state of things, the mercantile part of the country sees before it, in the coming year, an extraordinary amount of debt to the United States, for duties, a large proportion of which, is payable upon goods that have hitherto been unproductive; and it anticipates the privation of that aid, which the bank has always been accustomed to give towards the payment of the Custom House bonds. In addition to this, with the expiration of the charter of the Bank of the United States, it sees a suspension of the circulation of fifteen millions of dollars, the stated amount of its ordinary accommodations. It sees an accumulation of the precious metals in the bank, to the amount of its capital; it sees seven millions of that capital withdrawn from the country; and it sees, that payment of duties can no longer be made to the Government in the notes of the National Bank, but that payment must be made in specie. With this prospect, and the additional certainty, that accommodation and confidence will be universally succeeded by exaction and distrust, your memorialists are persuaded, that it will be in vain for individuals, for the chartered institutions, or the Government itself, to expect the fulfilment of engagements, or to rely upon the performance of contracts.

To the minds of your memorialists, the Bank of the United States, in its present form, presents a striking character for its use, convenience, and importance to the community. In addition to the various points of view in which its value has been already considered, its uses are further to be regarded, in its affording a convenient and safe medium of circulation throughout the United States; and in the facilities which it grants, by means of its drafts, in the transposition of funds from one part of the country to another, with perfect security. In a national and individual point of view, its utility is also displayed, in having and exercising, by means of its peculiar connexion of several branches in one common interest, the power of guarding against the inconvenience and evil, which might result from the balance of trade between different parts of the Union, producing a local deficiency of the circulating medium. But, above all, your memorialists regard as inestimable, an institution which, in its ample resources, possesses the power, and in the independent and liberal spirit of its direction, manifests the will, effectually to aid both Government and the private citizen, in case of a sudden and serious emergency.

To predict, with certainty, the extent of the evils which must inevitably flow from a dissolution of the bank, is beyond the power of your memorialists. They conceive that, among these evils, however, may certainly be placed an extensive and aggravating loss, by all persons interested in the banking associations of the country, a destructive disregard of punctuality in the performance of contracts, both towards the Government and the citizen; a wide spreading bankruptcy, which will be felt by the commercial, manufacturing, and agricultural interests; a diffidence of the stability of Government, both at home and abroad, and a prostration of that confidence and credit, which have so happily and successfully administered to the enterprise and prosperity of the country.

From the view which your memorialists have taken of this subject, and the observations which they have submitted to your consideration, it is apparent, that their earnest prayer to you is, that a renewal of the charter of the Bank of the United States may be granted; and a confirmation thereby be given to public confidence, private tranquillity, general credit, and national prosperity.

CONDY RAGUET,

*And one hundred others.*

WEDNESDAY, December 26.

The Senate assembled; and on motion, adjourned to 11 o'clock to-morrow morning.

THURSDAY, December 27.

JENKIN WHITESIDE, from the State of Tennessee, took his seat in the Senate.

Mr. LEIB, from the committee, appointed on the 7th instant, to consider the subject, reported a bill to incorporate the subscribers to the Farmers' Bank of Alexandria; and the bill was read and passed to the second reading.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, prepared in obedience to the directions of the act, entitled "An act regulating the currency of foreign coins, in the United States," passed April 10, 1806; and the report was read and ordered to lie for consideration.

Mr. LEIB gave notice that to-morrow he should ask leave to bring in a bill for the establishment of a quartermaster's department.

The bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" was read the second time.

The bill to incorporate the Bank of Washington was read the second time.

Mr. SMITH of Maryland, presented the memorial of Thomas Corcoran and others, citizens of Georgetown, in the District of Columbia, stating that they had commenced certain improvements in the channel of the river Potomac, near that town, but that they were impeded in their progress by a legal injunction, on suggestion that they might do injury to the bridge lately erected over the aforementioned river: And that the petitioners are constrained to lay their case before Congress, and to ask their interposition and relief. And the petition was read and referred to a select committee, to consist of five members, to consider and report thereon, by bill or otherwise; and Messrs. SMITH, of Maryland, FRANKLIN, CHAMPLIN, GAILLARD, and BRADLEY, were appointed the committee.

Mr. HORSEY gave notice that to-morrow he should ask leave to bring in a bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the Secretary of War to ascertain and settle, by the appoint-

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ment of Commissioners, the exterior line of the public land at West Point, with the adjoining proprietor;" in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read and passed to the second reading.

Mr. ANDERSON presented the petition of David Porter, stating that he commanded the flotilla stationed at New Orleans, during the existence of the laws prohibiting intercourse with France, and that he there seized, and prosecuted at his own expense, to condemnation, three vessels, the proceeds of which were distributed under the revenue laws, but that his proportion thereof did not amount to the cost of prosecution. He therefore prays Congress to relinquish to him their proportion of the penalties and forfeitures which may have been incurred by said seizures, as a remuneration for his services; and the petition was read, and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. ANDERSON, CAMPBELL, and CLAY, were appointed the committee.

Mr. POPE asked and obtained leave to bring in a bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company; and the bill was read and passed to the second reading.

#### OCCUPATION OF WEST FLORIDA.

The Senate resumed the consideration of the bill declaring the laws now in force in the Territory of Orleans to extend to, and to have full force and effect, to the river Perdido, pursuant to the treaty concluded at Paris on the 30th of April, 1803; and for other purposes.

The question was on the bill's passage to a third reading.

Mr. POPE.—Mr. President, I regret that the honorable chairman of the committee who reported this bill is not here to give it that support which his talents, information, and the importance of the subject authorize us to expect. His absence has devolved on me, as a member of the committee, and a representative of that section of the Union more immediately interested in the subject before us, to explain to the Senate some of the grounds which induced them to make this report. The first important question which the proclamation of the President and this bill presents for consideration is, whether, or not, the United States have a good title to the territory in question. Before I examine the treaty of cession from France to the United States of 1803, the source of our claim, permit me to inquire what were the limits of Louisiana in that quarter to which this subject leads us before the treaty and cession of 1762-3, between France, Spain, and Great Britain? On this subject, however, I believe there is no contrariety of opinion. Before this period, Louisiana extended east of the river Mississippi to the river Perdido. France and Spain, by the Treaty of 1719, established this boundary between Florida, now called East Florida and Louisiana. The ancient limits of Louisiana have been so fully ascertained by the

documents laid before Congress at different times, and the numerous discussions the subject has undergone, that I should only waste the time of the Senate in attempting to throw any new light on it. I shall only refer the Senate to one additional evidence that this river was the ancient eastern boundary of this province. Mr. Smollet, in his continuation of "Hume's History of England," states the answer of the British Government to the propositions made by France for peace early in the year 1761, from which it appears that France then claimed the river Perdido as their eastern limit, nor does this fact appear to have been contested by the British Minister. It appears that previous to the war which terminated in 1763, Louisiana comprehended nearly the whole country watered by the Mississippi and its branches. I find it stated in a pamphlet published in New York, that France, by a secret cession, contemporaneous with the treaty called the Family Compact of 1761, transferred this country to Spain, to induce her to become her ally in the war against Great Britain; and although I can find no evidence to support this statement, yet the events of that war, previous to that period, renders it at least probable. It will be remembered that the arms of Great Britain had triumphed over those of France both by sea and land. France had lost Canada, and a great number of ships of war. Spain was not then a party in the war, and, to induce her to become so, it seems probable that France, under the pressure of adverse fortune, ceded to her this province. But, as this statement does not correspond with the documents on our tables, nor the views of others who have examined this subject, we are compelled to take it for granted, that the cession of West Louisiana, with the island of New Orleans, to Spain, and of East Louisiana, since called West Florida, to Great Britain, were made at the same time, in the year 1762. It is, however, well known that France made the cession to Great Britain at the instance, and for the benefit of Spain, to enable her, with the cession of Florida, now called East Florida, to obtain a restitution of Cuba. The whole of Louisiana, not conquered by Great Britain, may, with propriety, be said to have been given up, or ceded to Spain. Let us now examine that part of the treaty of cession between the United States and France of 1803, which relates to this question. By that treaty, we acquired Louisiana as fully, and in the same manner as it had been acquired by France from Spain, in virtue of the Treaty of St. Ildefonso of the 1st of October, 1800. By this treaty, Spain retroceded Louisiana to France "with the same extent it then had in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States." That this extract from that treaty is correct, cannot be doubted, as it has never been denied by Spain. The word "retrocede" in this treaty has, I believe, occasioned more doubt with regard to the meaning of this cession than any expression contained in it, but cannot, when the subject

is properly examined, have the effect contended for. It is said that as France ceded to Spain, in 1762, Louisiana west of the Mississippi, including the island of New Orleans, the word "retrocede" must limit the cession to what had been previously ceded by France to Spain; but if it be true that Louisiana east and west of the Mississippi was ceded to Spain in the year 1761, although East Louisiana was afterwards ceded by France, with the consent of Spain to Great Britain, the word "retrocede" might, with propriety, be used with reference to the original grant to Spain in 1761, or if, what will not be denied, the cession of East Louisiana to Great Britain by France, was at the instance, and for the benefit of Spain, Spain, in 1800, after she had acquired East Louisiana, alias West Florida, so called by Great Britain after 1763, could well say to France, I re-grant to you what you ceded to me, and on my account, or, at least, so much as I can re-grant consistently with the treaties I have since made; and this seems to be the plain and evident meaning of the instrument. If the parties had meant to confine the retrocession to the limits of the cession, made by France to Spain, of Louisiana west of the Mississippi, including the island of New Orleans, they would have used the same description. They would certainly have stopped after saying the extent it then had in the hands of Spain. But, to prevent mistake or misconception, they add, "that it had when France possessed it," and, what is still more conclusive of the meaning of the parties, they go on to say, "and such as it should be after the treaties subsequently entered into between Spain and other States." As Spain had never entered into any treaty with regard to the western boundary of Louisiana, and as the only treaties to which the parties could have alluded was that of 1793 with Great Britain, and of 1795 with the United States, both relative to limits on the east side of the Mississippi, it is perfectly clear that the contracting parties meant to comprehend whatever of Louisiana, on the east side of the Mississippi, Spain had a title to. If the construction I contend for is not admitted, then the latter parts of the description will have no effect, contrary to a settled principle of law and common sense, that every part of an instrument shall have effect, if it can by any reasonable construction. To strengthen the construction for which I insist, it may not be amiss to consider the views of the French Government at the time this Treaty of St. Ildefonso was made. They no doubt acquired this province with an intention of holding it, and it was an object of national pride to regain as much as practicable of the colonies which had been lost under the old Government. Besides, they could not be ignorant of the importance of East Louisiana, now West Florida, to the security of New Orleans; and, as the practicability of obtaining it at that time from Spain cannot be doubted, the presumption is irresistible that the cession was intended to embrace it. I had intended to have ascertained at the Department of State the ground of objection with Spain to the surrender of that

country to the United States, but have not made the inquiry. I do not, however, think it difficult to account for the conduct of Spain. My conjecture is, that France, after she had sold Louisiana to the United States and received the price stipulated, secretly advised Spain not to surrender it, having at that time formed the project which she is now attempting to execute, of acquiring the whole Spanish Empire. Her interest was, therefore, identified with that of Spain, and she was, no doubt, willing to unite with Spain in giving the most limited construction to the cession to the United States. I find that Congress, by an act passed on the 24th of February, 1804, have solemnly asserted our right to this territory and authorized the President to take possession of it, and to establish a port of entry, &c., on the Mobile, whenever he should deem it expedient. The time when, and circumstances under which this step should be taken, were submitted to the discretion of the Executive. I may be permitted to ask why, if we had no title to this territory, the President was urged to take possession by force, and censured for not doing it? If my recollection is accurate, all parties agreed we ought to have the country—they only differed as to the mode of acquiring it. The President, influenced by that policy which has hitherto guided the present Administration, of avoiding making this nation a party in the present European war, in the exercise of the discretionary power vested in him by that act, did not think proper to seize upon it by force, but to wait for the occurrence of events to throw it into our hands without a struggle.

The expediency of taking possession of this territory cannot, it appears to me, admit of a doubt. If the President had refused or hesitated to meet the wishes of the people of West Florida by extending to them the protection of the American Government, and they had sought security in the arms of a foreign Power, what should we have heard? He would have been charged with imbecility, and fear of incurring responsibility. He would have been denounced as unworthy of the station his country had assigned him. Let it be remembered that the Orleans country is our most vulnerable part—remote from our physical force—a climate more fatal to our people than the sword of a victorious enemy—and that an enemy in possession of West Florida can with great facility cut off New Orleans from the upper country. If the fortunate moment had not been seized, this province would have fallen into the hands of a foreign Power, or, if time had been given for intrigue to mature itself, another Burr plot would probably have risen from the ashes of the first, more formidable to the integrity of this empire. Burr, like Archimedes, fancied that if he had a place to stand upon—a place beyond the jurisdiction of the United States to rally his followers—he could overturn the Government. He has, it is true, fled from the frowns of an indignant country; but he was not alone. Let an opportunity be afforded, and a thousand Burrs would throw off the mask and point their arms against the Federal Union. On a subject of such



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interest, it would have been criminal in those appointed to watch over the national safety to have hesitated. I was surprised to hear this procedure pronounced a robbery, and making of war. Why should our sympathies be awakened in favor of Spain? What claim has the Spanish Government upon our moderation and forbearance? What has been her conduct? From the moment we became an independent nation she has been intriguing to separate the Western country from the Atlantic States. She has made, at different periods, and as late as the year 1797, in violation of her treaty of 1795 with this country, direct propositions to the Western people to secede from the Union, and to accomplish her object at least attempted the use of means the most corrupt. What has been her conduct since we acquired Louisiana? If I am correctly informed, our deserters and slaves who have taken refuge in Florida in many instances have not been surrendered, and enormous duties have been imposed on our vessels navigating the Mobile. Under all these provocations, sufficient to have drawn upon them from almost any other nation an open declaration of war, our Government, influenced by that pacific policy which has hitherto regulated its course towards foreign nations, exercised patience and forbearance. And since the late revolution in Spain, I believe it will not be pretended that this Government has manifested any disposition to throw our weight into the scale of France against the Spanish party. Our Government has taken no step in relation to West Florida until compelled by a regard to our own safety. The Executive in the proceeding under consideration has used language the most conciliatory, and on the face of his proclamation given a pledge that this Government will at any time enter into amicable negotiations on the subject of our claim to this territory, if it shall be disputed.

There are other at least plausible grounds upon which this bill as an original proposition might be supported entirely independent of the cession. Spain is indebted to us a large amount for spoiliations committed on our commerce; and as there is no Government at present towards which the ordinary proceeding can be pursued to obtain payment, could we not, on the principle of the attachment law, as an act of self-justice, seize on this territory to secure satisfaction?

As this measure has been emphatically called an act of robbery and war, it may not be amiss to consider the political state of the Spanish colonies in relation to the Spanish Government in the hands of the Junta, and the new dynasty about to be established by Bonaparte. It may be said, perhaps, that the late alienation of the Spanish Crown and the revolution in Spain have dissolved the tie which connects them with the mother country. On this point I will not detain the Senate. If the French arms shall be successful in Spain, of which I believe few entertain much doubt, and the Junta shall be driven from Old Spain to any of the colonies, their political character must cease, and they can no

longer claim the exercise of any jurisdiction or sovereignty over the colonies. The colonies are not bound together by any political bond unconnected with the mother country; they are subject to the mother country, but, the moment she is conquered, they are at liberty to provide for themselves, unless, indeed, the Emperor of France or King Joseph can claim them. France, in an official exposé, and King Joseph, by proclamation, have declared their willingness that the colonies should become independent, provided they do not connect themselves with Great Britain. If France, therefore, shall, which is probable, conquer the mother country, we are fully authorized by her public declaration to the world to acquire, with the consent of the inhabitants, not only West but East Florida, Cuba, or any other province which we shall deem it expedient to connect with the United States. This bill may be justified, independent of title, by the law of self-preservation. Have we any assurance that the Spanish Government will maintain their neutrality in this territory if we should be involved in a war with either France or Great Britain? Can they, or will they, prevent the march of an enemy's forces through that territory into the United States? No, sir; we have every reason to expect the contrary. Considering how vulnerable we are from this territory, its present state, and the aspect of our foreign affairs, it appears to me that we are authorized to take possession of it as a measure of national security. It may be objected that taking the property of others by force tends to relax the morals of the people, by destroying that criterion of right and wrong, the observance of which is so necessary to the purity of our Republic; and I am ready to admit that we ought to proceed upon this principle of necessity and expediency with great caution, and never to act upon it but in extreme and evident cases. Had we a colony on the coast of England or France, similarly situated, we know they would not hesitate. When we reflect that our property is seized by almost every nation; that the laws and usages of nations are disregarded by nearly all Europe; that their conduct has been lately marked with a degree of perfidy and rapacity unexampled in the history of the civilized world; that they have in fact become States of Barbary; it appears to me that we ought not, as regards them, to be over nice or squeamish upon questions of this sort. Shall we sit here with our arms folded until the enemy is at our gates? If we waste our time in discussion and refining abstract questions of right and wrong, we shall lose our independence, and we shall deserve to lose it. I had hoped this bill would have passed without much debate; I know the people are tired of long speeches and documents. This fondness for lengthy discussions, has even drawn upon Congress the reproaches of the ladies; they begin to say—less talk, more action.

After Mr. POPE had concluded,

Mr. PICKENS said this was a subject of great importance, and ought not to be hurried to a de-

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cision on the first day of discussion. This was the first time the claim of the United States had been presented to the Senate in a shape to afford scope for discussion. He wished time for consideration, and moved to postpone the further consideration of the subject to Monday.

Motion lost—ayes 5. It was then moved to postpone it until to-morrow, and carried.

FRIDAY, December 28.

Mr. LEIB asked and obtained leave to bring in a bill for the establishment of a quartermaster's department; and the bill was read and passed to the second reading.

Mr. HORSEY asked and obtained leave to bring in a bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company; and the bill was read and passed to the second reading.

Mr. SMITH, of New York, presented the memorial of David Phillips and others, brass founders of the city of New York, praying the removal of the duty on the importation of zinc or spelter, for reasons therein stated; and the memorial was read and ordered to lie for consideration.

The bill, entitled "An act to authorize the Secretary of War to ascertain and settle, by the appointment of Commissioners, the exterior line of the public land at West Point, with the adjoining proprietor," was read the second time.

The bill to incorporate the Bank of Potomac was read the second time.

Mr. BRENT presented the petition of the President and Directors of the Bank of Alexandria, praying the renewal of their charter of incorporation, for reasons stated at large in the petition, which was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. BRENT, CHAMPLIN, and ROBISON, were appointed the committee.

Mr. DANA gave notice that on Monday he should ask leave to bring in a bill for the benefit of seamen of the United States.

#### OCCUPATION OF WEST FLORIDA.

The Senate resumed the consideration of the bill respecting the territory west of the Perdido.

Mr. HORSEY addressed the Senate as follows:

Mr. President: The bill under consideration contains two important provisions. The first in effect incorporates with the Territory of Orleans the province of West Florida east of the Mississippi, as far as the river Perdido; the second extends to that part of the province thus incorporated the laws now in force within the said Territory.

These provisions naturally involve two questions: first, whether the United States have a good title to that part of the province described in the bill; and secondly, whether it would be expedient for the Government of the United States to take possession of it by force.

Before I proceed to consider these questions, I beg leave, Mr. President, to advert to what may be considered a preliminary question. I refer to

the authority of the President of the United States to issue his proclamation and the accompanying orders of the 27th of August last, directing the forcible occupation of that territory. I deem it material to consider this point, because, if the proclamation were unauthorized, then Congress are not committed by it, nor are they bound to give it their sanction.

If the President had any authority to issue this proclamation, that authority must have been derived either under the Constitution of the United States or under some act or acts of Congress. The President has no power which does not proceed from one or the other of these sources. The Constitution has given to Congress the exclusive power of making laws and declaring war—to the President the power of executing the laws of the Union. The powers of the one are legislative, of the other executive. The question then would be, whether the President in issuing this proclamation has not transcended the limits of his powers.

Sir, what is the nature and import of this proclamation? In my humble conception both legislation and war. War—because it directs the occupation of this territory by a military force. The regular troops of the United States are ordered to march, and if they should not be found adequate to the object, the Governors of the Orleans and Mississippi Territories are directed to call out the militia of their respective territories, to co-operate with the regular forces. But we shall be told, sir, that the President, in issuing this proclamation, has taken the precaution to direct that in case any particular place, however small, should remain in possession of a Spanish force, the commanding officer is not to proceed to employ force against it, but to make immediate report thereof to the Secretary of State. Suppose while your commanding officer is making this report, the Spanish force sallies out and makes an attack upon your army, or suppose a Spanish army, with Governor Folch at their head, should march from East Florida with the view of repelling the invasion of this territory; what are Governor Claiborne and his army to do? Ground their arms and surrender themselves prisoners of war; or are they, sir, to drop their muskets and take to their heels? These are the only alternatives presented—they must either surrender, run, or fight. And who will doubt which of these alternatives the gallantry of an American army would impel them to choose! Sir, a conflict would be inevitable.

But while the President has been so affectedly cautious with respect to a Spanish force, he has overlooked altogether the contingency of resistance on the part of the revolutionists. These patriots it would seem had called a convention and issued a declaration of independence, and now it appears have formed and established a regular Government, which is organized and in operation. If these proceedings are not all a sham, the territory in question is now in the possession of a people claiming to be sovereign and independent; and is it supposable that this people can

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behave so dastardly as to submit, without a struggle, to the incursion of a hostile army, whose avowed object is the conquest of the country and the subversion of its constitution and independence? And here permit me to remark, that the style and tenor of the letter from the Secretary of State of the 15th of November, 1810, to Governor Holmes, in answer to the letter of the President of the convention praying the recognition and protection of the United States, are not admirably calculated to give a welcome reception to the American Army. If then resistance should be offered on the part of the constitutionalists, what is your army to do? The orders contain no proviso in this particular, requiring that the fact should be reported to the Department of State; but their clear intent is, that force should be employed. Under such circumstances it is not to be expected that this measure of the Executive will result in war? Is it not to be expected, that either the Spaniards or the Conventionalists will attempt to repel this palpable infringement upon their rights and territory?

But, sir, this proclamation is not only war, but it is an act of legislation too. It annexes the territory in question to the Orleans Territory; it creates a governor; it enacts laws, and appropriates money. It gives the Governor of the Orleans Territory all the authorities and functions over this particular territory which he possesses by virtue of his office as governor, and makes an appropriation of a sum of money, not exceeding twenty thousand dollars. This proclamation is substantially the bill under discussion, except that it goes much further. The first section of the bill only contains an annexation of the territory in question to the Orleans Territory—this the proclamation has already done. The second section only extends the laws of that territory to the particular territory in question—and this too the proclamation has already done. The only material difference in fact existing between the proclamation and this bill is, that the proclamation contains the further and important provision for raising the troops and the money necessary for carrying it into execution. And here, sir, I will take the liberty to remark that I do not consider this bill the only one intended on this subject. This is a mere entering wedge—when this is passed, Congress are committed to pass another, providing the necessary military and pecuniary means to carry this act into execution; and indeed I should not be surprised, if, before the close of the session, a bill were introduced to take possession of East as well as West Florida.

If the President had no power under the Constitution to issue this proclamation, I think it equally clear he had none under any existing laws of Congress. The act of the 31st of October, 1803, authorizing the President of the United States to take possession of and occupy the territory ceded by France to the United States, by the treaty concluded at Paris on the 30th of April, 1803, I apprehend, expired on the 1st day of October, 1804; to which period it was limited by the first section of the act for erecting Louisi-

ana into two Territories, and providing for the temporary government thereof; passed the 20th day of March, 1804.

This section enacts, that "the act passed the 31st day of October, entitled 'An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris, on the 30th day of April, 1803; and for the temporary government thereof,' shall continue in force until the 1st day of October, 1804, anything therein to the contrary notwithstanding; on which said 1st day of October, this act shall commence, and have full force, and shall continue in force for and during the term of one year, and to the end of the next session of Congress, which may happen thereafter." Let it be recollected that at the time this last mentioned act passed, the President had fulfilled his powers, under the act of the 31st of October, 1803, so far as it respected the taking possession of Louisiana. Possession had been actually and formally delivered, and the stock created and transferred to the French Government, according to the stipulations of the treaty. Besides, the very nature and design of the act of the 26th March, independent of the express limitation, superseded the act of the 31st of October.

But it is said, there are acts of Congress, which, though contemplating a present possession in a foreign authority, also contemplate an ultimate possession by the United States, under which the proclamation may be justified, even though the act of the 31st of October should have expired. The acts here referred to, I understand to be the act of the 24th of February, 1804, for laying and collecting duties within the territories ceded by France to the United States, the act abovementioned of the 26th of March, erecting Louisiana into two Territories, and the act of the 2d of March, 1805, authorizing the establishment of a Government in the Territory of Orleans, similar to the Government of the Mississippi Territory. The President himself admits, in his message at the opening of the session, that those laws contemplate a *present possession in a foreign Power*; but he further says, they contemplate an eventual possession by the United States. But, sir, let me ask what sort of possession? A possession by force? No, sir, not a single provision can be shown to justify such a construction. But a possession to be obtained by a *friendly negotiation*. I am warranted in this construction, not merely by the letter of those laws, by the lapse of time since their enactment, by the express official declaration of Mr. Madison himself, while Secretary of State. It is a notorious fact, that when the act of the 24th of February passed, the Marquis D'Yrujo, then the Minister of His Catholic Majesty in the United States, in a solemn form, protested against that law; and that Mr. Madison, by a letter dated on the 19th of March, assured the Marquis that the provisions relating to Louisiana "would not be extended beyond the *acknowledged limits of the United States, until it shall be rendered expedient by friendly elucidation and adjustments with His Catholic Majesty.*"

Upon the whole, sir, I have not been able to discover the shadow of authority, on the ground of which the President issued this proclamation. He has recited none, amidst all his recitals, and none appears to me but his own mere will and pleasure.

The act I therefore cannot view in any other light than an unwarrantable assumption of power and a violation of the Constitution.

Considering then, sir, this act of the Executive as illegal and unauthorized, we are fully at liberty to enter into the discussion of the great questions of title and expediency; a task which I will proceed to discharge to the best of my ability.

The first I propose to examine is, the title of the United States to the territory in question. With respect to this, I perceive, it unfortunately happens that honorable gentlemen who support the bill do not precisely accord in sentiment. The gentleman from Vermont (Mr. BRADLEY) has frankly conceded that the United States acquired no title under the Treaty of St. Ildefonso. Another gentleman (Mr. SMITH, of Maryland,) has declared that the United States did derive a title under that treaty and disclaims the title set up by the honorable gentleman from Vermont. I shall not undertake to decide which of the two gentlemen is right, if either be, but shall contend, and humbly expect to prove, that both are wrong.

What is the nature of the title set up by the gentleman from Vermont? Not under the treaty, he has candidly owned, but he supposes a title to exist on the ground of certain quaint principles of the common law, relative to the doctrines of estoppel and occupancy. I am extremely happy, sir, to find that honorable gentleman introducing the common law as authority upon this floor, especially on so great an occasion. His doctrines certainly evince both research and ingenuity, and show that he, like many with whom he acts, has not absolutely lost his veneration for the black letter. What are his doctrines? Why in the first place, he says, admitting that Spain did not cede Florida to France by the Treaty of St. Ildefonso, and admitting that France had no title to Florida on the 30th of April, 1803, when she ceded Louisiana to the United States, yet, as France has since acquired a title to the crown of Spain and her colonies, and as the French Plenipotentiary, when the treaty of 30th of April, 1803, was executed, did state and induce the American Ministers to understand and believe that Florida was comprehended in the cession, why the title, though France had it not when the treaty was signed, yet having it subsequently, immediately attached in the United States, and France is estopped from saying anything to the contrary. This argument, sir, begs everything: 1st. That the declarations on the part of the French Minister were made; 2dly, that being made they would operate to pass the title contrary to the express letter of the treaty; and lastly, that France has acquired a good title to the crown of Spain and her colonies. I will yield to the gentleman his first proposition, and grant, as he seems to desire it, that these representations were made

—and what do they prove? Not that the title passed, but that the French Minister was too deep for the American Plenipotentiaries, and, to use a jockey phrase, took them in. Sir, the only legal effect of such a fraud would be, to violate the treaty—to annul the contract. France, to be sure, would be bound upon principles of equity to refund the purchase money.

If then, sir, I am correct in stating, that no conversations or verbal declarations, however fraudulent, would operate to control or vary the plain letter and intent of the treaty, as appearing on the face of it, then upon the gentleman's own acknowledgments no title to Florida could have passed to the United States under the treaty of 1803. For the gentleman has unequivocally admitted that Florida was not ceded by Spain to France by the treaty of St. Ildefonso, and France, it is admitted on all sides, by the treaty of 1803, only ceded to the United States Louisiana, as fully, and in the same manner she acquired it from Spain by the Treaty of St. Ildefonso; nor, sir, can I admit that France has acquired a legitimate title to the crown and colonies of Spain, which must also appear before the gentleman can avail himself of his argument. What, Mr. President, is the nature of this title? Was it obtained *bona fide* for a fair and full consideration? No, sir, but by the most abominable perfidy, corruption, and duress, of which the pages of history furnish an example. Was not the royal family deceived by artifice from Madrid to Bayonne? Was not the old Monarch compelled to resign his crown to Ferdinand the Seventh, and was not that Prince a prisoner of Bonaparte; and, while in this condition, and, for aught we know, the bayonet at his breast, or the cup to his lips, constrained to resign his crown to the Emperor of France? Sir, what sort of title is this? Upon the eternal principles of justice, upon the principles of the common law and common sense, an instrument thus obtained is not obligatory on the party executing it.

But have the people of Spain acquiesced? No, sir; the instant publicity was given to the transaction they became indignant, and with one voice rose, resolved to resist this usurpation. To this hour they have not submitted.

But the gentleman has said that Spain is no longer able to hold Florida; that foreign emissaries will take it if the United States do not; and that it may be lawfully taken by the United States on the ground of the law of occupancy.

That title may be acquired by occupancy is not to be doubted. It is the mode by which title to property was originally acquired; but to obtain a title in this way the country must be vacant, uninhabited and not claimed by another proprietor. But in this instance is the territory vacant—or uninhabited—or abandoned by its proprietors? No, sir. The territory is either in the possession of Spain and claimed by her, or of the revolutionists, and if either be in possession, by the law of occupancy, you have no right to disturb them. Clearly then, sir, upon the principles and admissions of the honorable gentle-

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man from Vermont, the United States have no title to Florida.

And now, sir, with the indulgence of the Senate, I will proceed to consider as briefly as possible the nature of this title as derived under the Treaty of St. Ildefonso. Here, it will be granted, I meet the question fairly. This, I presume, is the title relied upon, as well by the Executive as the majority of the supporters of this bill.

In order fully to understand this subject, it is necessary to inquire into the principal cause of the war of 1756. The eastern boundary of Louisiana, I believe, was the chief cause of that war. The French were in the possession of the Mississippi, and claimed as part of Louisiana not only the country to the west of that river, but east as far as the Alleghany mountains. France, having this claim, and being in possession of Canada, conceived the project of uniting Louisiana with Canada. To accomplish her purpose she established a line of posts from the Lakes to the Ohio, and commenced encroachments upon the then British colonies. These encroachments she was pressing so far that Great Britain perceived it would be necessary to repel them. This brought on the war of '56, which, after a bloody conflict of seven years, terminated disastrously to France and her allies, and resulted in the establishment of the Mississippi, the Iberville, and the lakes Maurepas and Pontchartrain, as the boundary of Louisiana, giving to Great Britain all the territory on the east of that boundary, except the island and town of New Orleans, and to France all upon the west, including the island and town of New Orleans.

A more particular examination of the results of this war is important. By it France lost Canada and most of her West India islands. Spain, the ally of France, lost Cuba. By the preliminary articles of peace between Great Britain, France, and Spain, signed at Fontainebleau, and dated the 3d November, 1762, France renounced all pretensions to Nova Scotia, and ceded and guaranteed to his Britannic Majesty in full right, Canada, with all its dependencies. The 6th article stipulates, "In order to re-establish peace on the most solid and lasting foundations and to remove every subject of dispute, with regard to the limits of the British and French territories on the continent of North America: it is agreed that for the future the confines between the dominions of His Britannic Majesty and those of his most Christian Majesty, (French King,) in that part of the world, shall be irrevocably fixed by a line drawn along the middle of the river Mississippi from its source, as far as the river Iberville, and from thence by a line drawn along the middle of this river, and of the lakes Maurepas and Pontchartrain to the sea; and to this purpose, the most Christian King cedes in full right, and guarantees to His Britannic Majesty, the river and port of Mobile, (now West Florida,) and every thing that he possesses, or ought to have possessed on the left (east) side of the river Mississippi, except the town of New Orleans, and the island on which it is situated, which shall remain to

'France." By the 18th article, Great Britain restores to Spain all that she had conquered in the island of Cuba, with the fortress of Havana. In consequence of which His Catholic Majesty (King of Spain) by the 19th article "cedes and guaranties in full right, to His Britannic Majesty, all that Spain possesses on the continent of North America, to the east or the southeast of the Mississippi, including Florida, with Fort St. Augustine and the bay of Pensacola," (now consisting of East and a part of West Florida.) By the definitive treaty of peace and friendship between the Kings of Great Britain, France, and Spain, concluded at Paris on the 10th day of February, 1763, the preliminary articles were adopted, ratified, and confirmed. By another treaty bearing date the 3d day of November 1762, the same day and year the preliminary articles are dated, as appears by the letter to M. L'Abbadie, which I will presently refer to, France cedes Louisiana to Spain, together with the town and island of New Orleans. This last mentioned treaty has never been published, but the letter of the King of France to M. L'Abbadie recites the purport as well as date of it. This letter purports to be an order signed by the King of France, dated at Versailles, the 21st April, 1764, and directed to M. L'Abbadie, director general, and commandant for His Majesty in Louisiana. This letter was published at New Orleans in October, 1764; and circulated amongst the French inhabitants there. It recites:

"By a special act, done at Fontainebleau, November 3, 1762, of my own will and mere motion, having ceded to my very dear and best beloved cousin the King of Spain, and to his successors, in full property, purely and simply, and without any exceptions, the whole country known by the name of Louisiana, together with New Orleans, and the island in which the said city is situated; and by another act done at the Escorial, November 13, in the same year, His Catholic Majesty having accepted the cession of the said country of Louisiana, and the city and island of New Orleans, agreeably to the copies of the said acts, which you will find hereunto annexed; I write you this letter to inform, you, that my intention is, that on the receipt of these presents, whether they come to your hands by the officers of His Catholic Majesty or directly by such French vessels as may be charged with the same, you are to deliver up to the governor, or officer appointed for that purpose by the King of Spain, the said country and colony of Louisiana, and the posts thereon depending, likewise the city and island of New Orleans, in such state and condition as they shall be found to be in on the day of the said cession, willing that in all time to come they shall belong to His Catholic Majesty, to be governed and administered by his governors and officers, and as possessed by him in full property, without any exceptions."

From this document, and the treaties referred to, it appears that in the month of October, 1764, when the whole of Louisiana, with the island and town of New Orleans, was delivered to Spain, that Great Britain was in the peaceable possession of all the country on the east of the Mississippi. That with respect to Florida particularly, Great Britain was in possession, and nobody dreamed at

that time, that Florida either East or West, was any part of Louisiana. Had it been so considered, under the orders of the French King, to deliver the whole of the province to Spain, undoubtedly Florida would have been delivered.

Immediately after the cession of '62-3, Great Britain took possession of all the country on the east of the Mississippi, except only the town and island of New Orleans, and, in the year 1763 or 4, erected Old Florida, Pensacola, the river and port of Mobile, &c., into two distinct provinces, under the name of East and West Florida, names which they have borne ever since. In 1783, at the close of our Revolutionary war, Great Britain ceded to Spain East and West Florida, which, from that period to the present time, have been held by Spain under these names, as separate provinces from Louisiana. In the year 1800, when Spain was in possession of East and West Florida and Louisiana, as three several and distinct provinces, the famous Treaty of St. Ildefonso was concluded, whereby Spain "retrocedes to France the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other States." This treaty likewise has not been published, but the part just referred to is cited in the treaty between the United States and France of the 30th of April, 1803, whereby France cedes to the United States Louisiana, as fully and in the same manner as she acquired it of Spain by the Treaty of St. Ildefonso. Spain delivered possession in pursuance of the Treaty of St. Ildefonso to France, and France, in pursuance of the treaty of 1803, delivered possession to the United States, both Powers receiving the country on the west of the Mississippi, with the island and city of New Orleans, like Spain originally received it from France, as the whole of Louisiana.

I have now, I believe, sir, given a full and I trust fair and correct statement of the evidences and facts relative to the question of title. A few remarks will close what I have to say on this head. The letter from the King of France to M. L'Abbadie, is a very important document. It shows that the King of France, under whom we claim, and by whose admissions we are bound, so long ago as 1764, treated and considered the country on the west of the Mississippi as the whole of Louisiana. That, so considering it, he ceded and delivered it to Spain, together with the island and town of New Orleans, from which latter words it may be inferred that even the island and town of New Orleans were then not considered a part of Louisiana. In 1800, when Spain ceded back the colony of Louisiana to France, that country was only known on the west of the Mississippi. The war of '56, and the treaties of '62-3, had fixed the line and obliterated forever the name of Louisiana on the east of that river.

The Treaty of St. Ildefonso, of 1800, is a mere treaty of *retrocession*. The translation purports to be a treaty of cession, it is true, but acknowledged on all sides to be erroneous. The original

treaty was in the French language, and it is by that we are to be governed. The expression in the original is "*Sa Majesté Catholique promet et s'engage, de son cote, à retroceder à la République Française,*" &c. A *retroceder* signifying to retrocede, to restore, or to use a term familiar in the State I have the honor to represent, *re-convey* the colony of Louisiana to France, as it was when France conveyed it to Spain. The honorable gentleman from Kentucky, (Mr. POPE,) pressed by this argument, could only get round it by alleging that the original treaty between France and Spain was dated in 1761, prior to the settlement of the line and the cessions to Great Britain. But, unfortunately, he could not produce one tittle of authentic evidence to establish his position, a position absolutely negated by the official letter to M. L'Abbadie. But that gentleman has further told us, that from the words "with the same extent it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between other States," an intention may be raised to include Florida. I fully subscribe to the gentleman's rule, that we must give such a construction to the treaty, and particularly to the passage just referred to, as will give effect, if possible, to all the parts; and this I apprehend may be done without having recourse to the forced construction contended for. In the first place, the two first members of the passage may be reconciled and have effect by considering them as a twofold description of the same territory. From abundant caution it is not uncommon to give various descriptions of the same object. Sometimes the name is simply used, sometimes it is described by metes and bounds, and sometimes by the names of the adjacent countries. Sometimes a twofold, and sometimes a threefold description is given. And upon a critical examination, I think it will be found that this is the only true construction the instrument will bear. If you give it the construction the gentleman contends for, to wit: that the second member of the passage is an extension of the description given by the first, then the second includes the first, and of consequence the first would be nugatory and superfluous; which would be doing violence to the gentleman's own rule of construction. But if the gentleman will insist on giving to the second member an enlarged or extended sense, it may be done by applying it to the western boundaries of Louisiana. It is said that when France ceded Louisiana to Spain, in '62, the country extended on the west to the river Sabine, and that Spain, prior to the treaty of 1808, detached from Louisiana the territory south of the waters emptying into the Red river, and erected it into a new province under the name of the "Province of Texas." Sir, the operations on the Sabine are memorable. It is well known how mysteriously they were suspended by an arrangement in 1806, by which it was agreed that the Spaniards should not cross the Sabine, and that the Americans should not extend their settlements as far as that

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river. And for this purpose, to prevent collisions, until the difference should be settled, instructions were given that no surveys should be made west of a meridian passing by Nachitoches.

If the gentleman is not satisfied by travelling to the west, by going to the east he may find an application—the town and island of New Orleans, which, though named in the cession to Spain, are not named in the treaty of retrocession to France.

As to the third member of the passage, it is a formal provision introduced into most treaties, and would be understood if not expressed. Of course the cession would be subject to prior treaties with other States. In 1795, Spain concluded a treaty with the United States, whereby she agrees that the navigation of the Mississippi, in its whole breadth from its source to the ocean, shall be free to the citizens of the United States, and that they shall have the right to deposit their merchandise and effects in the port of New Orleans, free of duty for three years, and after that period, if the privilege is not extended at the port of New Orleans, she is to assign to the United States, on another part of the banks of the Mississippi, an equivalent establishment. To these provisions the clause in question I apprehend refers.

The holding or possession of Louisiana is correspondent with the construction I have given the treaty. When possession was originally delivered by France to Spain, Florida was not delivered or considered any part of the cession. When Louisiana, under the Treaty of St. Ildefonso was restored to France, Florida was not delivered. When Louisiana, under the treaty of 1803, was delivered to the United States, Florida was not comprehended. Indeed the Government of the United States then treated the country on the west of the Mississippi, including the town and island of New Orleans, as the whole of Louisiana, by receiving it and paying the purchase money, which by the terms of the treaty they were not bound to do, and which by the act of Congress creating the Louisiana stock they were not authorized to do, till after full and entire possession had been delivered.

Mr. President, is it conceivable that after the boundary in question had been established, by the most solemn compact of nations, and consecrated by a long and bloody war, and, too, by a lapse of near forty years—is it conceivable that the territory in question, excluded by that boundary, and raised into a distinct province under a distinct name—a name it ever bore after the establishment of the boundary—is it, I say, sir, conceivable, if the parties meant to have included this province in the Treaty of St. Ildefonso, that it should not have been specifically named?

I have now, sir, closed my remarks on the question of title, and will proceed to consider very briefly the only remaining question—that of expediency.

It would be well for gentlemen to consider whether this measure is not a departure from the just and pacific policy heretofore professed on

the part of the United States. Sir, our policy has been to avoid war. To this policy we have sacrificed many of our national rights, and property to a vast amount—pocketed indignities and suffered the nation's character to sink. We were particularly squeamish in relation to St. Domingo, a colony of France, when in a state of rebellion. We at that time carried on, and had done for a long time before, an important commerce with that island, when suddenly we were called upon by the French Minister, in the name of his master, in a style too not the most decorous and humble, to relinquish that commerce. And what did you do, sir? Compare the two cases. Here is a Spanish colony in a state of rebellion. And what do you do? Refuse to them provisions and supplies, as in the case of St. Domingo? No, sir. Do we merely aid and assist the revolutionists? No, sir; but we are about to invade the colony and take it to ourselves. Sir, your conduct would have been consistent, if, instead of passing a non-intercourse with St. Domingo, you had detached a squadron for the conquest of that island. France at that time had insulted and injured us more than Spain has done, and France then was equally as incapable of affording protection to that island as Spain now is to her colony of West Florida.

Sir, what has been your conduct heretofore towards Spain? When she denied to you the right of navigating the Mississippi, which may be considered one of the natural rights of this country—a right, too, consecrated by treaty, did you go to war? When she denied to you the right of deposit at New Orleans, in violation of a recent treaty, did you go to war? When she subjected you to a duty or tribute, as some would call it, on the Mobile, did you go to war? Nay, sir, when she committed spoiliations on your commerce, and suffered them to be committed within her jurisdiction by another Power, did you go to war? No, sir. And why? Spain was then the ally of France. What has Spain recently done to provoke this act of aggression upon her territory? What new offence has she given the United States? Is it her determination to resist the usurpation of France, or is it, that she has lately sent a Minister to express her friendly disposition, to treat with you for both the Floridas, and pay what she owes us for spoiliations?

Do you calculate that France will conquer Spain? This, in my humble opinion, she will not do. France is not now contending with an armed soldiery, but she fights an armed people; a people struggling for their liberty, their religion, and their laws, and resolved not to survive them. With such a cause and such a resolution, neither France nor the combined Powers of the earth can subdue them. Mr President, what are to be the consequences of this measure, a measure adopted at a time particularly calculated to excite the resentment of Spain and her allies; at a time when that people is pressed on all sides by their enemy, when their strength is prostrate, when they bleed at every pore and are almost in the act of fainting? What, I say sir, are we to expect but their

indignation and retaliation? Let it not be forgotten that the *lex talionis* is the modern rule, and that the day of retribution may come. Spain has a fleet, and being the ally of England, can send them to sea. Your East India merchants may pay for Florida. Your vessels in the ports of Spain and in the ports of her colonies may be seized and confiscated, and with more cause than the late seizures and confiscations of Europe. Sir, I consider this bill all important, and pregnant with awful consequences. Let it therefore be well considered before it passes.

In point of time, I think we are particularly unfortunate. Recollect the important crisis of this country in relation to the belligerents of Europe. France, it is said, has revoked her edicts, and now it remains for Great Britain to say whether she will repeal hers. Let it be remembered, that Great Britain is now the ally of Spain, and, for aught we know, may have guaranteed her colonies. Would it not at least have been prudent, as was done on a former occasion in relation to another Power, to have inquired what part she would take? If she is to act the part of an ally, offensive and defensive, or of an ally at all, can it be expected that she will revoke her Orders in Council, or even remain indifferent? It is a singular circumstance, that the proclamation reviving the non-intercourse with Great Britain and the one for taking possession of Florida were upon the anvil at the same time. There is only five days difference in their dates, and the Florida proclamation is the first. Sir, to me, they look a good deal like twin brothers.

One moment more will close my remarks. The honorable gentleman from Kentucky has told us that Europe is now in a state of barbarism, and has emphatically asked, are we to sit here and cavil about questions of right? What, sir, if Europe has become barbarous, is that a reason why America should become so too? Why we should depart from the great system of conduct which has been the pride, the safety, and boast of our country—of faith—of justice—of peace? Is this a reason, sir, why we should violate our treaty with Spain—not one of those barbarous Powers, but one of the victims of those Powers? Is this a reason why we should commit an act of injustice and violence towards a people who have proffered you their friendship? Is this a reason why we should embroil the nation in war?

I beg pardon, sir, for having detained you so long. The subject is important, and, if I have not been mistaken in my views of it, I have shown the proclamation unauthorized; that we have not a good title to Florida; and that if we had a claim, it would not accord with the equitable and pacific policy of the United States to assert it at this time by force.

MR. CLAY.—Mr President, it would have gratified me if some other gentleman had undertaken to reply to the ingenious argument which you have just heard. But not perceiving any one disposed to do so, a sense of duty obliges me, though very unwilling, to claim your indulgence while I offer my sentiments on this subject, so

interesting to the Union at large, but particularly to the western section of it. Allow me, sir, to express my admiration at the more than Aristidean justice, which, in a question of territorial title between the United States and a foreign nation, induces certain gentlemen to espouse the pretensions of the foreign nation. Doubtless, in any future negotiations, she will have too much magnanimity to avail herself of these spontaneous concessions in her favor, made on the floor of the Senate of the United States.

It was to have been expected, that in a question like the present, gentlemen, even on the same side, would have different views, and although arriving at a common conclusion, would do so by various arguments. And hence the honorable gentleman from Vermont entertains doubts with regard to our title against Spain, while he feels entirely satisfied of it against France. Believing, as I do, that our title against both Powers is indisputable, under the Treaty of St. Ildefonso between Spain and France, and the treaty between the French Republic and the United States, I shall not inquire into the treachery by which the King of Spain is alleged to have lost his crown; nor shall I stop to discuss the question involved in the overthrow of the Spanish monarchy, and how far the power of Spain ought to be considered as merged in that of France. I shall leave the honorable gentleman from Delaware to mourn over the fortunes of the fallen Charles. I have no commiseration for princes. My sympathies are reserved for the great mass of mankind, and I own that the people of Spain have them most sincerely.

I will adopt the course suggested by the nature of the subject, and pursued by other gentlemen, of examining into our title to the country lying between the Mississippi and the Rio Perdido (which, to avoid circumlocution, I will call West Florida, although it is not the whole of it)—and the propriety of the recent measures taken for the occupation of it. Our title depends, first, upon the limits of the province or colony of Louisiana, and secondly, upon a just exposition of the treaties before mentioned.

On this occasion it is only necessary to fix the Eastern boundary. In order to ascertain this, it is proper to take a cursory view of the settlement of the country; the basis of European title to colonies in America being prior discovery or prior occupancy. In 1682, La Salle migrated from Canada, then owned by France, descended the Mississippi and named the country, which it waters, Louisiana. About 1698, D'Iberville discovered by sea the mouth of the Mississippi, established a colony at the Isle Dauphine or Massacre, which lies at the mouth of the bay of Mobile, and one at the mouth of the river Mobile, and was appointed, by France, governor of the country. In the year 1717, the famous West India Company sent inhabitants to the Isle Dauphine, and found some of those who had been settled there under the auspices of D'Iberville. About the same period Baloxi, near the Pascagoula, was settled. In 1719, the city of New Orleans was



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laid off, and the seat of the Government of Louisiana was established there. In 1736, the French erected a fort on Tombigbee. These facts prove that France had the actual possession of the country as far east as the Mobile at least. But the great instrument which ascertains, beyond all doubt, that the country in question is comprehended within the limits of Louisiana, is one of the most authentic and solemn character which the archives of the nation can furnish. I mean the patent granted in 1712, by Louis XIV. to Crozat. [Here Mr. C. read such parts of the patent as were applicable to the subject.\*] Ac-

\**Extract from the Grant to Crozat, dated at Fontainebleau, September 14, 1712.*

"LOUIS, BY THE GRACE OF GOD, &c.

"The care we have always had to procure the welfare and advantage of our subjects, having induced us, &c. to seek for all possible opportunities of enlarging and extending the trade of our American colonies, we did in the year 1683 give our orders to undertake a discovery of the countries and lands which are situated in the northern part of America, between New France and New Mexico; and the Sieur de la Salle, to whom we committed that enterprise, having had success enough to confirm a belief that a communication might be settled from New France to the Gulf of Mexico by means of large rivers; this obliged us, immediately after the peace of Ryswick, to give orders for establishing a colony there and maintaining a garrison, which has kept and preserved the possession we had taken in the very year, 1683, of the lands, coasts and islands which are situated in the Gulf of Mexico, between Carolina on the east and Old New Mexico on the west. But a new war having broke out shortly after, there was no possibility, till now, of reaping from that colony the advantages that might have been expected from thence, &c. And whereas, upon the information we have received concerning the disposition and situation of the said countries, known at present by the name of the Province of Louisiana, we are of opinion, that there may be established therein a considerable commerce, &c., we have resolved to grant the commerce of the country of Louisiana to the Sieur Anthony Crozat, &c. For these reasons, &c., we by these presents, signed by our hand, have appointed and do appoint the said Sieur Crozat to carry on a trade in all the lands possessed by us, and bounded by New Mexico and by the lands of the English of Carolina, all the establishments, ports, havens, rivers, and principally the port and haven of the Isle Dauphine, heretofore called Massacre; the river of St. Louis, heretofore called Mississippi, from the edge of the sea as far as the Illinois, together with the river St. Philip, heretofore called the Missouri, and of St. Jerome, heretofore called Ouabache, with all the countries, territories, and lakes within land, and the rivers which fall directly or indirectly into that part of the river St. Louis.

"*The articles.* 1. Our pleasure is, that all the aforesaid lands, countries, streams, rivers, and islands, be and remain comprised under the name of the Government of Louisiana, which shall be dependant upon the General Government of New France, to which it is subordinate; and further, that all the lands which we possess from the Illinois be united, &c. to the General Government of New France, and become part thereof, &c."

cording to this document, in describing the province or colony of Louisiana, it is declared to be bounded by Carolina on the east and Old and New Mexico on the west. Under this high record evidence, it might be insisted that we have a fair claim to East as well as West Florida, against France at least, unless she has by some convention or other obligatory act, restricted the eastern limit of the province. It has, indeed, been asserted that by a treaty between France and Spain, concluded in the year 1719, the Perdido was expressly stipulated to be the boundary between their respective provinces of Florida on the east and Louisiana on the west; but as I have been unable to find any such treaty, I am induced to doubt its existence.

About the same period, to wit, towards the seventeenth century, when France settled the isle Dauphine and the Mobile, Spain erected a fort at Pensacola. But Spain never pushed her actual settlements or conquests further west than the bay of Pensacola, whilst those of the French were bounded on the east by the Mobile. Between those two points, a space of about thirteen or fourteen leagues, neither nation had the exclusive possession. The Rio Perdido, forming the bay of the same name, discharges itself into the Gulf of Mexico between the Mobile and Pensacola, and, being a natural and the most notorious object between them, presented itself as a suitable boundary between the possessions of the two nations. It accordingly appears very early to have been adopted as the boundary, by tacit if not express consent. The ancient charts and historians, therefore, of the country so represent it. Dupratz, one of the most accurate historians in point of fact and detail of the time, whose work was published as early as 1758, describes the coast as being bounded on the east by the Rio Perdido. In truth, sir, no European nation whatever, except France, ever occupied any portion of West Florida, prior to her cession of it to England in 1762. The gentlemen on the other side do not indeed strongly controvert, if they do not expressly admit, that Louisiana, as held by France anterior to her cession of it in 1762, reached to the Perdido. The only observation made by the gentleman from Delaware to the contrary, to wit, that the island of New Orleans being particularly mentioned could not for that reason constitute a part of Louisiana, is susceptible of a very satisfactory answer. That island was excepted out of the grant to England, and was the only part of the province east of the river that was so excepted. It formed in itself one of the most prominent and important objects of the cession to Spain originally, and was transferred to her with the portion of the province west of the Mississippi. It might with equal propriety be urged that St. Augustine is not in East Florida, because St. Augustine is expressly mentioned by Spain in her cession of that province to England. From this view of the subject I think it results that the province of Louisiana comprised West Florida, previous to the year 1762.

What is done with it at this epoch? By a secret convention of the 3d of November of that year, France ceded the country lying west of the Mississippi, and the island of New Orleans to Spain; and by a contemporaneous act, the articles preliminary to the definitive Treaty of 1763, she transferred West Florida to England. Thus at the same instant of time she alienated the whole province.

Posterior to this grant, Great Britain, having also acquired from Spain her possessions east of the Mississippi, erected the country into two provinces, East and West Florida. In this state of things it continued until the peace of 1783, when Great Britain, in consequence of the events of the war, surrendered the country to Spain, who for the first time came into the actual possession of West Florida. Well, sir, how does she dispose of it? She reannexes it to the residue of Louisiana; extends the jurisdiction of that Government to it, and subjects the governors or commandants of the districts of Baton Rouge, Feliciana, Mobile, and Pensacola, to the authority of the Governor of Louisiana, residing at New Orleans; whereas the Governor of East Florida is placed wholly without his control, and is made amenable directly to the Governor of the Havana. And I have been credibly informed that all the concessions or grants of land, made in West Florida, under the authority of Spain, run in the name of the *government of Louisiana*. You cannot have forgotten that about the period when we took possession of New Orleans, under the Treaty of Cession from France, the whole country rung with the nefarious speculations which were alleged to be practising in that city, with the connivance, if not actual participation of the Spanish authorities, by the procurement of surreptitious grants of land, particularly in the district of Feliciana. West Florida, then, not only as France has held it, but as it was in the hands of Spain, made a part of the province of Louisiana, as much so as the jurisdiction or district of Baton Rouge constituted a part of West Florida.

What, then, is the true construction of the Treaties of St. Ildefonso and of April, 1803, from whence our title is derived? If an ambiguity exist in a grant, the interpretation most favorable to the grantee is to be preferred. It was the duty of the grantor to have expressed himself in plain and intelligible terms. This is the doctrine not of Coke only, (whose dicta I admit have nothing to do with the question,) but of the code of universal law. The doctrine is entitled to augmented force when a clause only of the instrument is exhibited, in which clause the ambiguity lurks, and the residue of the instrument is kept back by the grantor. The entire convention of 1762, by which France transferred Louisiana to Spain, is concealed, and the whole of the Treaty of St. Ildefonso, except a solitary clause. We are thus deprived of the aid which a full view of both of those instruments would afford. But we have no occasion to resort to any rules of construction, however

reasonable in themselves, to establish our title. A competent knowledge of the facts, connected with the case, and a candid appeal to the treaties, are alone sufficient to manifest our right. The negotiators of the Treaty of 1803 having signed with the same ceremony two copies, one in the English and the other in the French language, it has been contended, that in the English version the term 'cede' has been erroneously used instead of 'retrocede,' which is the expression in the French copy. And it is argued that we are bound by the phraseology of the French copy, because, it is declared that the treaty was agreed to in that language. It would not be very unfair to inquire if this is not like the common case, in private life, where individuals enter into a contract, of which each party retains a copy, duly executed. In such case neither has the preference. We might as well say to France we will cling by the English copy, as she could insist upon an adherence to the French copy; and if she urged ignorance on the part of Mr. Marbois, her negotiator, of our language, we might, with equal propriety, plead ignorance on the part of our negotiators of her language. As this, however, is a disputable point, I do not avail myself of it; gentlemen shall have the full benefit of the expressions in the French copy. According to this, then, in reciting the Treaty of St. Ildefonso, it is declared by Spain in 1800, that she retrocedes to France the colony or province of Louisiana, with the same extent that it then had in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States. This latter member of the description has been sufficiently explained by my colleague.

It is said that since France in 1762 ceded to Spain only Louisiana west of the Mississippi, and the island of New Orleans, the retrocession comprehended no more—that the retrocession *ex vi termini* was commensurate with and limited by the direct cession from France to Spain. If this were true, then the description, such as Spain held it, that is in 1800, comprising West Florida, and such as France possessed it, that is in 1762, prior to the several cessions, comprising also West Florida, would be totally inoperative. But the definition of the term retrocession, contended for by the other side, is denied. It does not exclude the instrumentality of a third party. It means restoration or reconveyance of the thing originally ceded, and so the gentleman from Delaware acknowledged. I admit that the thing restored must have come to the restoring party from the party to whom it is retroceded, whether directly or indirectly is wholly immaterial. In its passage it may have come through a dozen hands. The retroceding party must claim *under* and in virtue of the right originally possessed by the party to whom the retrocession takes place. Allow me to put a case: You own an estate called Louisiana. You convey one moiety of it to the gentleman from Delaware, and the other to me; he conveys his moiety to me, and I thus

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become entitled to the whole. By a suitable instrument I reconvey or retrocede the estate called Louisiana to you as I now hold it, and as you held it; what passes to you? The whole estate or my moiety only? Let me indulge another supposition: that the gentleman from Delaware, after he received from you his moiety, had bestowed a new denomination upon it, and called it West Florida, would that circumstance vary the operation of my act of retrocession to you? The case supposed is in truth the real one between the United States and Spain. France in 1762 transfers Louisiana west of the Mississippi to Spain, and at the same time conveys the eastern portion of it, exclusive of New Orleans, to Great Britain. Twenty one years after, that is in 1783, Great Britain cedes her part to Spain, who thus becomes possessed of the entire province; one portion by direct cession from France, and the residue by indirect cession. Spain then held the whole of Louisiana under France, and in virtue of the title of France. The whole moved or passed from France to her. When, therefore, in this state of things, she says, in the Treaty of St. Ildefonso, that she retrocedes the province to France, can a doubt exist that she parts with, and gives back to France, the entire colony? To preclude the possibility of such a doubt, she adds, that she restores it, not in a mutilated condition, but in that precise condition in which France had, and she herself possessed it.

Having thus shown, as I conceive, a clear right in the United States to West Florida, I proceed to inquire if the proclamation of the President directing the occupation of property, which is thus fairly acquired by solemn treaty, be an unauthorized measure of war and of legislation, as has been contended.

The act of October, 1803, contains two sections, by one of which the President is authorized to occupy the territories ceded to us by France in the April preceding. The other empowers the President to establish a provisional government there. The first section is unlimited in its duration; the other is restricted to the expiration of the then session of Congress. The act, therefore, of March, 1804, declaring that the previous act of October should continue in force until the first of October, 1804, is applicable to the second and not the first section, and was intended to continue the provisional government of the President. By the act of the 24th of February, 1804, for laying duties on goods imported into the ceded territories, the President is empowered, *whenever he deems it expedient*, to erect the bay and river Mobile, &c., into a separate district, and to establish therein a port of entry and delivery. By this same act the Orleans Territory is laid off, and its boundaries are so defined as to comprehend West Florida. By other acts the President is authorized to remove by force, under certain circumstances, persons settling or taking possession of lands ceded to the United States.

These laws furnish a legislative construction of the treaty, correspondent with that given by the

Executive, and they vest in this branch of the Government indisputably a power to take possession of the country, whenever it might be proper in his discretion. The President has not, therefore, violated the Constitution, and usurped the war-making power, but he would have violated that provision which requires him to see that the laws are faithfully executed, if he had longer forborne to act. It is urged that he has assumed powers belonging to Congress in undertaking to annex the portion of West Florida between the Mississippi and the Perdido to the Orleans Territory. But Congress, as has been shown, has already made this annexation the limits of the Orleans Territory, as prescribed by Congress, comprehending the country in question. The President, by his proclamation, has not made law, but has merely declared to the people of West Florida what the law is. This is the office of a proclamation, and it was highly proper that the people of that Territory should be thus notified. By the act of occupying the country, the Government *de facto*, whether of Spain, or the revolutionists, ceased to exist; and the laws of the Orleans Territory, applicable to the country, by operation and force of law, attached to it. But this was a state of things which the people might not know, and every dictate of justice and humanity required, therefore, should be proclaimed. I consider the bill before us merely in the light of a declaratory law.

Never could a more propitious moment present itself for the exercise of the discretionary power placed in the President of the United States, and, had he failed to embrace it, he would have been criminally inattentive to the dearest interests of this country. It cannot be too often repeated, that if Cuba on the one hand, and Florida on the other, are in the possession of a foreign maritime Power, the immense country belonging to the United States, watered by streams discharging themselves into the Gulf of Mexico—that is, one-third, nay more than two-thirds of the United States, comprehending Louisiana, is placed at the mercy of that Power. The possession of Florida is a guarantee absolutely necessary to the enjoyment of the navigation of those streams. The gentleman from Delaware anticipates the most direful consequences from the occupation of the country. He supposes a sally from a Spanish garrison upon the American forces, and asks what is to be done? We attempt a peaceful possession of the country, to which we are fairly entitled. If the wrongful occupants under the authority of Spain assail our troops, I trust they will retrieve the lost honor of the nation in the case of the Chesapeake. Suppose an attack upon any portion of the American Army within the acknowledged limits of the United States by a Spanish force? In such event there would exist but a single honorable and manly course. The gentleman conceives it ungenerous that we should at this moment, when Spain is encompassed and pressed on all sides by the immense power of her enemy, occupy West Florida. Shall we sit by, passive

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spectators, and witness the interesting transactions in that country—transactions which tend to jeopardize, in the most imminent degree, our rights, without interference? Are you prepared to see a foreign Power seize what belongs to us? I have heard in the most credible manner that, about the period when the President took his measures in relation to that country, the agents of a foreign Power were intriguing with the people there, to induce them to come under his dominion.

Whether this be the fact or not, it cannot be doubted, that if you neglect the present auspicious moment—if you reject the proffered boon, some other nation, profiting by your errors, will seize the occasion to get a fatal footing in your southern frontier. I have no hesitation in saying, that if a parent country will not or cannot maintain its authority in a colony adjacent to us, and there exists in it a state of misrule and disorder, menacing our peace, and if moreover such colony, by passing into the hands of any other Power, would become dangerous to the integrity of the Union, and manifestly tend to the subversion of our laws; we have a right, upon eternal principles of self-preservation, to lay hold of it. This principle alone, independent of any title, would warrant our occupation of West Florida. But it is not necessary to resort to it, our title being in my judgment incontestably good. We are told of the vengeance of resuscitated Spain. If Spain, under any modification of her Government, chose to make war upon us, for the act under consideration, the nation, I have no doubt, will be willing to meet the war. But the gentleman reminds us that Great Britain, the ally of Spain, may be obliged by her connexion with Spain to take part with her against us, and to consider this measure of the President as justifying an appeal to arms.

Sir, said Mr. CLAY, is the time never to arrive when we may manage our affairs without the fear of insulting His Britannic Majesty? Is the rod of British power to be forever suspended over our heads? Does Congress put on an embargo to shelter our rightful commerce against the piratical depredations committed upon it on the ocean? We are immediately warned of the indignation of offended England. Is a law of non-intercourse proposed? The whole navy of the haughty mistress of the seas is made to thunder in our ears. Does the President refuse to continue a correspondence with a Minister who violates the decorum belonging to his diplomatic character, by giving and deliberately repeating an affront to the whole nation? We are instantly menaced with the chastisement which English pride will not fail to inflict. Whether we assert our rights by sea or attempt their maintenance by land—whithersoever we turn ourselves, this phantom incessantly pursues us. Already has it had too much influence on the councils of the nation. It contributed to the repeal of the embargo—that dishonorable repeal, which has so much tarnished the character of our Government. Mr. President, I have before said on this floor,

and now take occasion again to remark, that I most sincerely desire peace and amity with England; that I even prefer an adjustment of all differences with her before one with any other nation. But if she persist in a denial of justice to us, or if she avails herself of the occupation of West Florida to commence war upon us, I trust and hope that all hearts will unite in a bold and vigorous vindication of our rights. I do not, however, believe in the prediction that war will be the effect of the measure in question.

It is asked, why, some years ago, when the interruption of the right of deposit took place at New Orleans, the Government did not declare war against Spain, and how it has happened that there has been this long acquiescence in the Spanish possession of West Florida? The answer is obvious. It consists in the genius of the nation, which is prone to peace; in that desire to arrange, by friendly negotiation, our disputes with all nations, which has constantly influenced the present and preceding Administrations; and in the jealousy of armies, with which we have been inspired by the melancholy experience of free States. But a new state of things has arisen. Negotiation has become hopeless. The Power with whom it was to be conducted, if not annihilated, is in a situation that precludes it; and the subject-matter of it is in danger of being snatched forever from our power. Longer delay would be construed into a dereliction of our right, and amount to treachery to ourselves: May I ask, in my turn, why certain gentlemen, now so fearful of war, were so urgent for it with Spain when she withheld the right of deposit? and still later, when in 1805 or 6, this very subject of the actual limits of Louisiana was before Congress? I will not say, because I do not know that I am authorized to say, that the motive is to be found in the change of relation between Spain and other European Powers since those periods.

Does the honorable gentleman from Delaware really believe that he finds in St. Domingo a case parallel with that of West Florida? and that our Government having interdicted an illicit commerce with the former, ought not to have interposed in relation to the latter? It is scarcely necessary to consume your time by remarking that we had no pretensions to that island; that it did not menace our repose, nor did the safety of the United States require that they should occupy it. It became, therefore, our duty to attend to the just remonstrance of France against American citizens, supplying the rebels with the means of resisting her power.

I am not, sir, in favor of cherishing the passion of conquest. But I must be permitted to conclude by declaring my hope to see, ere long, the new United States (if you will allow me the expression) embracing not only the old thirteen States, but the entire country east of the Mississippi, including East Florida, and some of the territories to the north of us also.

When Mr. CLAY had concluded, the Senate adjourned.

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MONDAY, December 31.

JOHN TAYLOR, appointed a Senator by the Legislature of the State of South Carolina, in place of Thomas Sumter, resigned, produced his credentials, which were read; and the oath prescribed by law having been administered to him, he took his seat in the Senate.

MR. FRANKLIN, from the committee to whom was referred the bill, entitled "An act making an additional appropriation to supply the deficiency in the appropriation for the relief and protection of distressed American seamen during the year 1810," reported it without amendment.

MR. BRADLEY, from the committee to whom was referred the bill, entitled "An act to fix the compensation of the additional Assistant Postmaster General," reported the bill with an amendment; which was read.

The bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company was read the second time.

The bill to incorporate the subscribers to the Farmers' Bank of Alexandria was read the second time.

The bill for the establishment of a quartermaster's department was read the second time, referred to a select committee, to consider and report thereon; and Messrs. LEIB, FRANKLIN, and PICKERING, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana;" in which they desire the concurrence of the Senate.

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The Senate resumed the consideration of the bill extending the laws now in force in Orleans Territory to the Perdido, &c.

MR. PICKERING commenced a speech, in which he proceeded about an hour; when he read, as an evidence in support of his argument against the title of the United States to Louisiana or Florida between the Mississippi and Perdido, a letter from Charles Maurice Talleyrand, the French Minister for Foreign Affairs, dated 21st December, 1804, to General Armstrong, our Minister at Paris, on the subject of certain overtures which had been made by our Ministers in Spain for the aid of France in procuring a cession to the United States of one or both Floridas. The purport of Talleyrand's letter appeared to be a denial that the United States had acquired, by the treaty of 1803, any title to Louisiana east of the Mississippi, or some statement to that effect.

When Mr. P. had concluded the reading of this letter—

MR. SMITH, of Maryland, said he wished to inquire whether the paper, which the gentleman had just read, had ever been publicly communicated to the Senate.

MR. PICKERING said it had been communicated, not indeed as a public paper, but for what reason had it been communicated confidentially? Be-

cause, by a publication of it at the time, injury might have been done to our Ministers or our affairs abroad. There was, however, now no reason why the whole truth should not be known. They were about taking a step which was one of peace or war, and it was important that everything in relation to the subject should be disclosed.

MR. SMITH said that whenever papers were communicated to the Senate confidentially, before they could be read publicly in this body or any other, it was necessary that the permission of the Senate should be obtained; which no doubt if asked in this case would have been granted. But if this proceeding were permitted to pass unnoticed, any individual might have the power to do the greatest injury to the nation, as his humor might move him. He apprehended the proceeding was wrong; but gentlemen older in the Senate than he was could perhaps better decide.

On the suggestion of a member, the galleries were cleared. The Senate sat with closed doors for an hour. When they were again opened, on motion of MR. ANDERSON, the further consideration of the bill last mentioned was postponed.

MR. CLAY submitted the following resolution, which lies on the table of course:

*Resolved*, That the public perusal in the Senate of certain papers with open galleries by the gentleman from Massachusetts, (MR. PICKERING,) in his seat, without a special order of the Senate removing the injunction of secrecy, which papers had been confidentially communicated to the Senate by the President of the United States, was a palpable violation of the rules of this body.

The Senate then adjourned to Wednesday.

WEDNESDAY, January 2, 1811.

ANDREW GREGG, from the State of Pennsylvania, took his seat in the Senate.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, made in conformity with the acts of March 26, 1804, and March 3, 1805, of rejected claims made by the Commissioners appointed for the purpose of examining the claims of persons claiming lands in the district of Kaskaskia; and the report was read, and ordered to lie for consideration.

On motion, by MR. LLOYD, it was agreed to suspend the order of the day for the purpose of considering the bill, entitled "An act making an additional appropriation to supply the deficiency in the appropriation for the relief and protection of distressed American seamen during the year 1810;" and the bill was read and considered as in Committee of the Whole, and passed to the third reading.

MR. DANA asked and obtained leave to bring in a bill for the benefit of seamen of the United States; which was read, and passed to the second reading.

The PRESIDENT communicated the report of the Secretary for the Department of War, made in obedience to the first section of the act "further to amend the several acts for the establish-

ment of the Treasury, War, and Navy Departments," passed the 3d day of March, 1809; which was read, and ordered to lie for consideration.

The bill brought up from the House of Representatives for concurrence, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana," was read, and passed to the second reading.

The bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, was read the second time.

#### QUESTION OF ORDER.

Mr. CLAY called up the motion made the 31st of December, on the subject of order; and, on his motion, it was agreed that the original motion be amended as follows:

*Resolved*, That Timothy Pickering, a Senator from the State of Massachusetts, having, on this day, whilst the Senate was in session with open doors, read from his place certain documents confidentially communicated by the President of the United States to the Senate, the injunction of secrecy not having been removed, has, in so doing, committed a palpable violation of the rules of this body.

Mr. CLAY said he wished it was consistent with his duty to forbear pressing it; but from the best consideration he could give the subject, he was obliged to ask a decision on it. With respect to the act having been a violation of the rule, there could be but one opinion. The rule seemed to have been made for the precise occasion. If the Senate did not express their disapprobation, it would be inferred from their silence that they had given their approbation, of the gentleman's conduct; and any individual would hereafter, if inclined, follow his example without hesitation. Again—if the President could not have some degree of security that the documents confidentially communicated to Congress, and on the preserving which in confidence perhaps the safety of the nation depended, would not be disclosed; must not all reliance on the Senate be lost? These considerations induced him to press a decision.

Mr. LLOYD said he had been in hopes that the resolution would have been withdrawn, as it was admitted that the facts disclosed were of no great consequence, as indeed they had been already circulated in the newspapers, and their disclosure could prove of no detriment to the public service. However much gentlemen wished to show their respect for the rules of the Senate, he had hoped that the resolution would have been withdrawn; and that the Senate would not have passed a censure of this sort on so slight an offence as this, if it be an offence at all. He therefore moved to postpone the resolution.

The motion to postpone was lost—yeas 9.

Mr. DANA apprehended the true question in this case to be, what course it became the Senate of the United States to adopt.

The resolution, then, in the first place, proposing to establish an important precedent as to the propriety of proceeding, should be strictly accurate; and if they were to give a rule, which was

to be to members a monitor of their duty, and to the House a guardian of its honor and dignity, the whole case should be accurately stated.

My objection to the resolution (said Mr. D.) is, that it does not present the circumstances which led to the result, as they occurred, and which ought to be taken into account in giving it a fair estimate. I ask the question, whether it be possible for the members of the Senate, consistently with any principle of justice, fairness, and public decorum, to pass this resolution? On this ground I submit myself with confidence to the Senate; not that I object to its phraseology merely, but that the conduct of the gentleman from Massachusetts, compared with that of others, whether strictly regular or not, was not more exceptionable than theirs. What we have acquiesced in when done by others, should be tolerated in him.

When the bill relative to jurisdiction eastward of the Mississippi to the Perdido was first under discussion, sir, if I do not mistake, more than a week since, a gentleman from Vermont, one of the committee that reported the bill, went into a consideration of what had passed when the Louisiana convention was before the Senate for ratification, and into a statement of the correspondence of the Ministers of the United States, which was officially communicated by the President of the United States to the Senate, and undertook to state what he recollected to have been stated by them as to the representations of the French Minister. I did understand an honorable member of the committee to state this as one of the reasons why the bill should be passed; and this too without any question whatever. Afterwards, the gentleman from Massachusetts rose to state what was his apprehension; and said that he did not understand our Ministers to have stated that the French Government so represented the thing, and referred to a letter, the effect of which, he told the Senate, was such at the time it was received, as to have produced a perfect silence in the Senate on the subject of the claim of the United States. This all took place about a week since, and the question was really a question respecting fact. Although no member could entertain the opinion that it was the intention of any gentleman to represent the facts inaccurately, yet, that facts might be stated with precision, the very document referred to by the gentleman was read, without anything bearing the resemblance of surprise, and without anything like an intention to take advantage of the House. If I understood the letter, it was one calculated very powerfully to attract the attention of the House. It had been partly read and commented on; and after having thus read the remarks of Messrs Monroe and Livingston on the treaty respecting Louisiana, the gentleman next came to the letter of Mr. Talleyrand, and prefaced it by an account of an application by our Ministers to the French Government for their aid with the Court of Spain on this subject. After some observations of this kind, the gentleman took up the volume of correspondence, gave the date of the paper and its address, and, after having

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done so, made a comment which must have called the attention of gentlemen of the Senate, who had not, at least, within a few years past, heard the gentleman from Massachusetts express an opinion more favorable to the French Government. After which he read the letter—and an inquiry was then made, whether it was confidential or not.

Now, I ask, sir, is it the stating of the specific words of a communication, or stating the sense and import of it, which constitutes a violation of any injunction of secrecy. I ask the question, not because gentlemen can doubt much on the subject—the substance is undoubtedly all that is material. What was the date of the letter is not of as much consequence as to whom it was addressed, from whom it came, and what it contained. If I do not mistake, sir, there was some other allusion to the subject; the discussion had gone on without being checked, till, unfortunately it seems for the Senate of the United States, the gentleman from Massachusetts, instead of trusting to memory, and exposing himself and the Senate to error, undertook to state what were the very words.

If it be proper, sir, for the Senate to tolerate debate on a fact, which fact depends on diplomatic communications, it is proper to ascertain the fact which was alluded to. Gentlemen may state the question as strongly as they please—it is not whether the proceeding was strictly regular or irregular—but I contend that, if the gentleman from Massachusetts has offended, he was not the first. Some of the other members set the example. It was acquiesced in by the whole Senate; I will not say from ignorance, certainly not from inattention. I refer it to the Senate, therefore, as the matter has gone on without any intention to gain advantage or design to take any one by surprise, but with a view to attain accuracy, whether it can become this body to pronounce censure on the gentleman from Massachusetts.

Gentlemen, sir, may say whatever they choose about the importance of the power of the President to lock our lips in eternal silence; but I do not acknowledge the authority of any mortal to bind us to such secrecy without our assent. All the President can properly do is to refer to us as men of discernment, as men worthy of the public confidence, as men of honorable principles, capable of judging on public concerns, to judge of the propriety of acting confidentially on any subject. Shall the Senate of the United States, sir, adopt a rule to authorize the President to say, that we are unworthy to judge whether a matter ought to be kept secret or not? The Senate is a body of men selected in a manner to hold them forth as worthy of confidence; and I had really thought that such a body of men might be trusted, without the passage of such a resolution, to show a proper respect to the Executive Magistrate.

No one gentleman, however sensitive he might be as to what would tarnish the lustre of the Senatorial character, thought the proceeding improper in discussing the substance of those documents

called confidential. About the expiration of a week thereafter, when resort is had to the accuracy of written communication instead of the uncertainty of recollection, then the offence commences. It consisted not in disclosing the matter itself but in testing its accuracy. Ought that to be deemed an offence, which was merely telling the truth, guarding against inaccuracy, providing against the uncertainty of recollection?

Perhaps, sir, our general rules of proceeding are not sufficiently exact. Instead of deciding on this resolution, perhaps we ought to refer it to a committee for examining our rules and amending them if requisite. Right or wrong, we have all participated in the course of proceeding by general acquiescence. I have countenanced the thing in this manner, and were I now to accuse the gentleman from Massachusetts, I should act as a man who himself practises with impunity that for which he would punish another.

I am not, sir, for a moment to suspect that any particular disrespect to the gentleman from Massachusetts has given rise to this motion; but I submit for consideration, whether it would not be more consistent with that justice which we ourselves would have established to mete to the gentleman from Massachusetts as we should wish it to be meted unto us. If other gentlemen can say that they have, on this occasion, been completely blameless; if you yourself, Mr. President, could say so, not having arrested the gentleman's progress in reading these documents; let those who are without fault, and none other, give this resolution their support.

But if, in this case, there has been a general acquiescence in the practice of referring to diplomatic transactions, which have been past for years; if, from a Senatorial courtesy, or the exercise of a liberal indulgence towards each other in the course of debate, an unanimous consent has been fairly understood for introducing the evidence of diplomatic correspondence in the public discussion of the particular bill before the Senate; or, if in this respect we have not maintained the strict regularity which we might think proper in the abstract in preparing a body of rules for such fallible beings as ourselves; will the recollection of our own proceedings permit us to adopt such a resolution as is now proposed? If by our conduct, in relation to the particular bill, we have without a single exception consented to the course followed by the gentleman from Massachusetts, how does it become us to adjudge him? On reflection, if it be thought that we all have been not sufficiently attentive to rule during the discussion of a bill peculiarly interesting, let us admit the infirmity of our common nature, and dismiss the resolution, as we know within ourselves, and feel, that to err is human.

Mr. SMITH, of Maryland, said that the Senate must doubtless have been much gratified at the lecture it had received from so young a member; at being told by the gentleman from Connecticut (Mr. DANA) that it was a common custom to disclose messages of a secret nature, and there-

fore justifiable. Mr. S. said he meant to take no part in this discussion, but he felt himself called upon to say that nothing fell from him that had the most distant allusion to the documents read, (by Mr. PICKERING.) He would say further, that those documents had not been within his recollection, and therefore the gentleman from Connecticut must go further for his proofs than to him. Allusion had also been made by the gentleman in order to substantiate his argument, to the gentleman from Vermont. In this allusion, also, in the opinion of Mr. S., the gentleman was inaccurate.

But the Senate had been told that their rule was very improper. Even that was not now a question for consideration. So long as the rule existed, it ought to be adhered to. The gentleman had boasted of his independence, and declared, whatever the President might say, he would exercise his judgment whether he would reveal it or not.

Mr. DANA explained. Did I, said he, as an individual, say that I would communicate confidential matters without the leave of the Senate? I certainly was misapprehended. I say that this body is the judge of what is proper to be kept in confidence. It was not for me to say what has been the usage before; but, as a witness of what had passed under my own eye, whatever be the diversity of years between myself and others, however young I am in the Senate, I had a right at least to apply the eternal principles of justice, and to say, let him that is without sin throw the first stone.

Mr. SMITH, of Maryland, continued. I know very well, sir, said he, that I am myself so unfortunate, in the warmth of debate, as to be misapprehended by others; but, surely, the gentleman could not have been misapprehended in this case. There was no occasion for him to say that the Senate could take off the injunction of secrecy. Every member was convinced of that.

Mr. DANA said, in explanation, that the mover of the resolution had gone into some argument on the general question; and when the gentleman thought proper to do so, it seemed but a decent respect to allude to his argument.

Mr. SMITH, of Maryland, resumed. There can be no doubt whatever, sir, that there are certain things of a confidential nature which are extremely advantageous to us in making up our opinions; and that the President, when he communicates such things, acts with a strong reliance on the honor of those to whom he communicates, and with a strong impression that no man will feel at liberty to divulge any part of it. If we depart from our usual line of conduct in this respect, it cannot be expected that the President will hereafter place so much reliance on us as to give us confidential communications on any subject. We have, indeed, latterly received no confidential communications; not that it ever happened in this House before that anything of a confidential nature was made public. My chief object in rising, however, was to state that when I spoke on the subject on a former occasion, I

said I would not give my consent to call on the Executive for papers to substantiate a title which we have already substantiated by law.

Mr. DANA said, that as to the gentleman's allusion to the confidential papers, he had not expressed himself with decision. The gentleman's remarks, however, had left a faint trace of that kind on his mind.

Mr. SMITH, of Maryland, said it was a very unfortunate trace. He had been already sufficiently slandered in the newspapers of the country; and the gentleman's idea going into the public prints, his name would be traduced in the Federal prints from one end of the continent to the other, from the gentleman's *faint trace*.

Mr. BRENT said, from the remarks which had been made by the gentleman from Connecticut, it was indispensably necessary that this resolution should be adopted. If it was a common practice to divulge secret proceedings, it was necessary to put a stop to a course so disgraceful and ruinous to the country. The gentleman had wished that he who was innocent of it should cast the first stone.

Mr. DANA said, he only alluded to the transaction which was now the subject of debate.

Mr. BRENT observed, he had then misapprehended the gentleman.

Mr. POPE said, that not having had it in his power to attend the Senate since Friday, and some observations having been made, calculated to produce an impression that he had alluded to the confidential documents, he thought it due to himself to state that he did not before know of the existence of such documents, as they had been communicated long before he had a seat here.

Mr. FRANKLIN said there could be no doubt that the conduct of the gentleman from Massachusetts was in violation of the rule of the Senate. Let it be recollected, said he, that in the commencement of the session, two resolutions were offered to the Senate calling upon the President of the United States for information as to the claim of the United States to the territory in question. They were thought improper, and the Senate refused to call for the information. What has been the course of this business? After the Senate had expressed this opinion, a gentleman rises and reads precisely the documents which the Senate had refused to call for, and compels us, notwithstanding our own decision, to hear those papers read. I should be sorry to believe that the gentleman did it intentionally; but as respects the rule laid down for the government of the Senate, it is a palpable violation of it. All things in the nature of treaties, &c., come to us confidentially, and so remain until the injunction of secrecy is taken off. If a gentleman sees proper to rise and read those communications, does he not incur the responsibility attached to the violation of those rules, and may he not do infinite mischief? When instructions were sent forward to acquire, by purchase, so much territory as should secure to us the right of deposit at New Orleans, to the surprise of every one, the



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whole country was acquired. We purchased this Territory, and have gone on to legislate on the purchase. We have set up a claim and established it; but, upon the representation of the Spanish Government, have forborne until now to occupy the Territory. This state of things was kept in view by the President. The people of Florida having denied the authority of Spain, and set up a claim of their own, the United States say, they will now enforce their claim, subject to a future negotiation with Spain, if she should be in a situation to renew her claim. While this is pending, an Executive record of six years standing is read; and it is impossible that even the President of the Senate could say that the gentleman was reading papers confidentially communicated. No man, from memory, could have stopped the gentleman in the commencement of the reading. The Senate, after laying down rules for its government, ought to see that they were observed.

Mr. SMITH, of Maryland, said that having been interrupted by the gentleman from Connecticut, he had forgotten one thing he intended to notice. He now rose to apologize for what the gentleman had termed negligence. The gentleman stated, said Mr. S., that the member from Massachusetts had read one document, and declared his intention to read another; and yet that the sensitive feelings of no gentleman had induced him to check him. When the reading of the papers was first began, sir, I doubted whether they were or were not confidential papers. After the letter of Mr. Talleyrand was read through, I thought they were confidential papers, but I was not certain. I applied to the Secretary of the Senate to know whether they were or were not. On being informed of the fact, I immediately, as I deemed it proper, stated it to the Senate.

Mr. CLAY wished to be allowed to trespass on the attention of the Senate one moment in reply to some remarks not before noticed. If indeed there had been such repeated violations of the rule, and even within one week, that the gentleman was to lose the responsibility of it in consequence of its frequency, it seemed the more necessary to revert to the original rules and give to them the force which they had lost. If any gentleman feels at liberty to disclose at will Executive communications, it is necessary to give some pledge that we will henceforward pay more regard to them. The gentleman from Connecticut, if I mistake not, has told us, sir, that the secrecy imposed by communications in confidence depends on the individual honor of each member.—[Mr. DANA said, he had said it depended on the honor of the members as composing this body.] Mr. C. continued. I did not mean to impute to the gentleman an opinion that each member was at liberty to disclose matters communicated confidentially, but I did understand him that the honor of the individual members was a sufficient pledge that they will not disclose that which is communicated in confidence. It is not simply on that bond, forcible as it ought to be, that the President ought to

have entire reliance that his communications will not be divulged; but, in my mind, on a solemn compact between the President and Senate, which ought to be inviolable. The following is the rule in relation to this subject: "All confidential communications made by the President of the United States to the Senate, shall, by the members thereof, be kept inviolably secret; and all the treaties which may hereafter be laid before the Senate shall also be kept secret until the Senate shall by their resolution take off the injunction of secrecy." Relying with confidence on the honor of the body and the rule before me which promises secrecy, could the President anticipate the unpleasant event of a disclosure of confidential papers, not only contrary to his wish, but to the will of the Senate, and to our rules? Will the gentleman from Connecticut contend that a casual incidental reference, in the course of a detail of circumstances, to communications of this kind, is to be compared to the deliberate act of taking a file of papers, unfolding them, reading paper after paper, and commenting on its language? Surely there is all possible difference between the character of the two acts. I certainly, sir, do not recollect all the circumstances detailed by the gentleman from Vermont. He went into a particular detail of circumstances attending the acquisition of Louisiana, and possibly, though I do not recollect it, he might have glanced incidentally at these papers. When these communications were made I was not a member, and till the day before yesterday did not know that they were communicated confidentially. Every view requires of us, in justice to the character of the Senate, to afford a pledge that confidential communications hereafter made shall not be indiscreetly disclosed.

Mr. ANDERSON said he should have said nothing on this subject but for the ground taken by the honorable gentleman from Connecticut, as a justification of the conduct of the gentleman from Massachusetts. I did not (said Mr. A.) understand any gentleman to say anything in debate relating, as I conceived, to confidential communications; but the honorable gentleman from Connecticut has taken that as a ground of defence. The gentleman seems desirous that we should suffer the resolution to be withdrawn, and pass a censure on the Senate for having suffered it to go on, because the presumption is, not having been sooner called to order, that the gentleman was not out of order. But will it be supposed for a moment that the gentleman was not out of order? It has been well observed that on this subject two resolutions had been offered to the House and disagreed to by large majorities. Although I was a member of the Senate when the documents were communicated, and for many years since, I could not at once recollect when or how they were communicated. The gentleman did not say they were confidential. When he was asked, are they confidential—without looking at the endorsement or anything, he answered that they were confidential. Is there any comparison between this deliberate perusal

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and vague allusions to them? Certainly not. I hope the resolution will pass.

Mr. TAYLOR said he was already fully sensible of the disadvantages under which a new member labors in a legislative body; but if he had totally forgotten them, he should have been reminded of them to-day. But if the situation have its disadvantages it has also its advantages. I was not (said Mr. T.) a witness of the previous aberrations from order, and, therefore, this simple question is before me: Was the gentleman from Massachusetts guilty of a breach of order, and is he, therefore, amenable to the Senate? And I should not now rise but that the course of debate particularly introduced by the gentleman from Connecticut appears to have led the Senate from the issue in fact which was tendered by the gentleman from Massachusetts himself. The justification of the gentleman is still almost vibrating in the ears of the Senate—it has gone abroad—I have seen it already in print. He did not justify the perusal on the ground that the subject had been touched upon by other gentlemen of the Senate, but because it was a great question—a question of war or peace; and he took the ground, I presume, of a right to judge, in his individual capacity, of the propriety of divulging or not divulging this matter, the disclosure of which is forbidden by the rules of the Senate. That appeared to me to be the issue tendered by the gentleman himself. The rule having been read to me, and the gentleman having justified his departure from it on the ground of the importance of the subject, I have nothing to do but decide whether we shall at once, by suffering the transaction to pass unnoticed, do away all that confidence which ought to subsist between the different branches of the Government. I cannot under these circumstances but give the resolution my decided affirmative.

Mr. PICKERING.—Mr. President, when I came to the Senate this morning, I did not know that any gentleman would speak either for the purpose of postponing a decision on the question now under consideration, or of explaining it; or take any ground for my vindication. All that has been said with these views was without my previous knowledge. The gentleman from Connecticut (Mr. DANA) has taken the ground on which I meant to rest my defence; and his observations may, therefore, be thought to supersede any of my own. But, not thinking of such support, I had endeavored to recollect what passed on the first day the West Florida bill was under discussion, and which gave occasion to the production of the papers, the reading of which is now the subject of censure. To repeat what I recollect may not be useless.

The gentleman from Vermont on my left, (Mr. BRADLEY,) on taking up the bill, and advocating the title of the United States to West Florida (which is assumed as the basis of the bill) referred to the papers relating to the negotiation for the purchase of Louisiana; and asserted that the French Ministers had then stated to those of the United States, (Messrs. Livingston and Monroe,)

and induced them to believe, that Louisiana comprehended West Florida. To this I answered, that I was satisfied the gentleman was mistaken; that I had some recollection of those papers; and that they would show the idea of West Florida being comprised in the purchase of Louisiana, to have been an after-thought of our Ministers, some time subsequent to the conclusion of the treaty. I also repeated, from my recollection, an observation of our Ministers on the occasion—that, if West Florida was comprehended, the purchase would be the more valuable. I said also, that, prior to the purchase, Louisiana and West Florida were considered as distinct territories; and for the proof I referred to a letter from Mr. Talleyrand to General Armstrong, in consequence of his application for the favorable interposition of the French Government to induce Spain to cede to the United States both the Floridas; and I stated that the reasons contained in that letter appeared so convincing, on both sides of the Senate, that every mouth was shut, as to our title to West Florida.

In this manner those documents were originally referred to; and although they had been confidentially communicated, which no gentleman who was a member of the Senate in 1803 and 1805 could have forgotten, yet this plain and public reference to them passed without objection. In fact, as no negotiation was pending, as we had no Minister at any foreign Court, to be affected by the disclosure, there existed no reason for concealment; and I could not consider the papers any longer under the seal of secrecy, and that to have recourse to them to ascertain material facts, and whether the memory of the gentleman from Vermont or my own was correct, would be a "palpable" departure from the rules. I, therefore, openly referred to them. But, sir, on Monday last, when the bill was again taken up, and before I read the papers in question, I gave some details, to show how the negotiation relative to Louisiana had originated. I stated that the United States having the right to navigate the Mississippi, they, in 1795, acquired the right of deposit for our merchandise and effects at New Orleans, by our treaty with Spain; that at a subsequent period (in 1801 or 1802) this right of deposit was disputed, and the navigation obstructed. I remarked, that to recover our rights different projects were suggested; on one side it was proposed to resort to arms; on the other, to take a pacific course; that the latter being adopted, our Ministers were instructed to negotiate with France for the purchase of New Orleans and the Floridas, or for such part thereof as could be obtained: that the purchase of Louisiana had never been contemplated. And to show the error of the gentleman from Vermont, on the first discussion, I turned to a letter from our Ministers, dated the 7th of June, 1803, more than five weeks after the treaty had been concluded; and read a passage to prove what I suggested on the first day's discussion, that the idea of West Florida being comprised in the cession of Louisiana, originated with them, and not with the

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Ministers of France. I next proceeded to read the letter of Mr. Talleyrand to General Armstrong, of the 21st of December, 1804, which produced the powerful effect already mentioned, when first read in the Senate six years ago.

Having proceeded thus deliberately; having particularly described each paper before I read it, I presumed every gentleman of the Senate who had been a member in 1803 and 1805, knew distinctly what the papers were; and perceiving no objection, I could only suppose that the Senate acquiesced, and in fact were desirous of hearing them read.

But, sir, it has been said by more than one gentleman, that two resolutions for the production of all the papers, of which I read a small part, had been offered and rejected. It is very true; and the gentleman from Maryland (Mr. SMITH) has, I believe, correctly stated why they were rejected. Not that the Senate were determined to shut their eyes against all evidence, but because they thought our title to West Florida to be clear, and they would not spend time in investigating it. It was not that these papers were to be locked up forever; but that members were so well satisfied of the title, they wanted no further information concerning it.

The gentleman from South Carolina (Mr. TAYLOR) has stated my having put myself on the issue of fact, and taken the ground of justification. It is very true, and that, on Monday, when some discussion took place, I offered, at the moment, what appeared to me a substantial reason why the documents should be read. I have now explained the grounds on which I proceeded, and really cannot but think they will prove a sufficient justification.

The gentleman from Maryland (Mr. SMITH) said, on Monday, that there would be no objection to the publication of the papers which I read; and that, if leave had been asked to read them, it would doubtless have been granted. Then, sir, no harm is done. What is the reason of the rule in question? Its object is to prevent the disclosure of any facts which the public interest requires to be kept secret. And what is the real state of the case under consideration? I have publicly read to the Senate some papers originally communicated confidentially, on a subject concerning which there is no negotiation depending in relation to any foreign Power, or any Minister abroad; and in which there is nothing any longer requiring secrecy. Surely, then, the reason for this rule of confidence has ceased; it did not apply to these papers. No State secret was disclosed, or meant to be disclosed. When a proposition was made to publish the whole of the documents, I myself remarked that there were some which it might be improper to publish. What does this prove? Certainly that I was not disposed to divulge what required confidence. And, so far as I went, I really conceived that I was proceeding with the approbation of the Senate.

As to the documents which I read, the reason of the rule is at an end. And, with gentlemen

of the bar, the maxim is familiar, that when the reason of the law ceases, the law itself ceases. If there has been a violation of the rule, it is of the letter only: and to this another law maxim applies—he who sticks in the *letter*, sticks in the *bark*. I will quote one more maxim, from a higher authority: "The letter killeth, but the spirit giveth life."

With these observations I will close. They appear to me, and I did trust they would have appeared to the Senate, a complete vindication.

Mr. CHAMPLIN said he could not put his hand on his heart, and say that the transaction which was the subject of the resolution was strictly correct. But circumstances palliated the act. There certainly had been, in the previous debate, some allusion to papers not published. Being a new member, of course he knew very little about the confidential documents, but he certainly had heard allusions which he really did not understand, having reference to documents of which he had no knowledge. He did not recollect by what gentleman these were made. What had the gentleman from Massachusetts done? Had he taken the Senate by surprise? No. He declared that France had been of a different opinion from our Administration as to the boundary; that on application an answer had been given to them by Talleyrand, which, when read, had closed every mouth in the Senate on the subject of the title of the United States. Mr. C. said he had heard no objection to this allusion; nothing had been said about it. If it had been the intention of the honorable gentleman to have palmed this paper on the public, and to take the Senate by surprise, would he have stated what he did before he read it? He did it in the most deliberate manner, and called the attention of every member to it. Mr. C. said he was very glad the paper was read, and he hoped gentlemen would also permit it to be published, not only for the information of the Senate, but for the information of the people, because he considered this question as one of peace or war. He himself could not consent to vote on this bill till he was better informed; he was ignorant of many points. From the open manner in which the gentleman had introduced the letter, it became every or any one who had a knowledge of its being confidential, to call him to order. If I am called upon to express my opinion, I cannot, in conscience, say the gentleman was altogether correct; neither was it correct in gentlemen previously to allude to those papers. I think the gentleman had no right to decide for himself; it was for the Senate to decide whether it would be proper to disclose them. And yet, admitting this fact, I cannot consent to give my vote that the gentleman has been guilty of a palpable violation of the rule. What, sir, shall we, for this offence, declare that an honorable member of the Senate, who has grown grey in the public service, whom I venerate, has palpably offended against our rules? Mr. C. said he thought the gentleman's conduct had not been justified fully by himself; but there were strong palliating circumstances.

As to politics, if, on this occasion, they were drawn into view, he agreed with the gentleman, except in some points in relation to Great Britain, in which he did not agree with him. But difference of opinion from the gentleman would not induce him to give a vote to stigmatize him. To pass a censure on a man grown grey in the public service, as a palpable violator of the rules of the Senate, he could not agree. He must vote against the resolution, and he hoped that, from that vote, no inference would be drawn that he believed the conduct of the gentleman to have been entirely correct.

Mr. SMITH, of Maryland, said, he had no doubt on his mind, that if the gentleman had asked the consent of the Senate to read those papers, it would have been given. The gentleman, however, had said, that when those papers were read, in 1805, they had shut the mouth of every member as to the claim of the United States. For my own part, sir, said Mr. S., I can only state that the reading of those papers had not the least effect whatever on my opinion as to the title of the United States. I did then, and do now, believe, that the words of the treaty, by which alone we and they are bound, did give us a fair right to the country in question. Neither, sir, can I recollect any act at that time pending before Congress, which could have shown that the mouth of every member was shut as to this question.

Mr. ANDERSON said, the paper in question had not, at the time it was sent to the Senate, and he now declared it might not have, any bearing on the title of the United States. He recollected that this letter was addressed to our Minister at a time when they wished to extend the boundary of East Florida as far west as they could, in order to induce the United States to give a greater price for it than they would otherwise have done.

Mr. CRAWFORD said, he regretted extremely the occasion which had given rise to this discussion. It was, at all times, unpleasant to come into a state of collision with those with whom we are called upon to act, and, particularly so, when the resolution before the Senate charged a member not only with having violated a rule, but with having palpably violated it. The resolution assumed a fact, not denied, that certain confidential papers were publicly read without a removal of the injunction of secrecy. Mr. C. said he was not in his place when this unpleasant transaction took place, nor had he a distinct recollection of what had fallen from the gentleman from Vermont. He recollected, to be sure, some metaphysical ideas expressed by the gentleman, to which he did not assent. If the gentleman made any allusion to those papers, Mr. C. said he could not have detected it, as he had never before heard them; nor, probably, were there half a dozen of the present members of the Senate who had heard them. Mr. C. said, he could not, unless he were constrained, from the nature of the act itself, charge on the records any member with having deliberately violated such a rule as this. He must believe the gentleman

did the act without reflection. Believing the gentleman from Massachusetts had not well examined the matter, and did not intend wilfully to violate the rule, he moved to erase from the resolution the word "palpable." Every one must agree that the gentleman's conduct was a violation of the rule.

Mr. CLAY acceded to the motion.

The amendment was agreed to, *nem. dis.*

Mr. LLOYD said he had considered the word "palpable" as meaning an intentional violation of the rule. As it was admitted now that the disclosure had been attended with no injury; as the gentleman had named the paper he was about to read, and no one had objected to the reading it; and as the resolution would go to imply a censure on the older members of the Senate, as they must have been forgetful of one of the most important national transactions; or have been willing to avail themselves of the honest zeal of a man who had spent his life in the public service to entrap him, and put a censure on the journals of the Senate which should blast his character abroad. He, therefore, moved to insert before the word "violation" the word "unintentional."

Mr. CLAY expressed his surprise at this motion. If it were persisted in, he should feel himself bound to move to strike out of the word the syllable *un*. If he was compelled to vote at all upon the subject, he would say that the gentleman's conduct had been intentional. But when all were willing to soften the censure; when a gentleman on the same side had admitted that the gentleman's conduct was inexcusable, and the gentleman himself did not say that his act was unintentional, would it not be improper in the House to say that it was? If the thing be persisted in, if the gentleman urges us to decide a fact to which I was willing to have given the go-by, I must feel myself bound to pronounce it an intentional violation.

Mr. ANDERSON said he had been perfectly willing to erase the word palpable; but, if this motion were persisted in, he must call for the yeas and yeas on it; and the gentleman would find the effect of the motion very different from what he intended.

Mr. FRANKLIN repelled, as unfounded in fact, the insinuation of a design in the old Senators to entrap the gentleman from Massachusetts.

Mr. LLOYD withdrew his motion, in consequence of the wishes of his friends near him. It was possible, he said, that, with his very bad memory, he might forget transactions of a week past. But he would not take back the declaration, either that gentlemen had forgotten the documents or were guilty of a breach of duty in not stopping the gentleman from giving them to the world. The proposition before the Senate was not a naked one, but stated two facts; one, that the rule was violated, and the other that it had been so violated as to deserve one of the most serious censures. Unless gentlemen could make up their minds to say that it was an intentional violation, they could not vote for the resolution.

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Mr. GOODRICH said, that the grounds on which gentlemen supported the resolution were as he apprehended too limited and partial; they seemed to suppose that our attention ought to be confined solely to the question, whether or not the transaction alluded to was an infraction of the Senate's rule. To give the subject the liberal and just view it merits, other and important considerations must be noticed. We must consider the nature and character of the transaction, its effects in relation to the Senate, and the public interests, and what is proper for us to do. On a candid examination of these questions, I am persuaded that it will be found that neither a respect for the order or honor of the Senate, nor any of the public interests, require the adoption of the resolution. It is not denied, it is admitted, that the transaction was an infraction of the letter of the rule. Does it thence conclusively follow that the resolution is necessary or proper? The occurrence is not uncommon for gentlemen in the zeal and ardor of discussion to trespass on the rules of order prescribed for their conduct. And it may be asked, whether this be the only instance in which documents of a confidential nature have been adverted to and commented on in public debate? On ordinary occasions, Mr. President, under your superintendence, order is preserved, without being over nice and critical on questions of this sort.

And this, sir, may be one reason, why the Senate is distinguished, as it eminently is, for the decorum of their proceedings. Admitting what, it is believed, no one is disposed to question, that there has been an infraction of the rule literally considered, are we, I ask, bound, as gentlemen insist, to notice it, and in this novel and unprecedented manner, by recording it in our journals? It will not escape the attention of gentlemen that a proposition may be true—but, being a mere abstract proposition, leads to no practical use; it may neither do good or harm. This resolution however is not altogether of that cast; it is not a mere abstract proposition in itself innocent and harmless; in many respects it is extremely exceptionable. It does not, as it ought, fully state the case. Those prominent circumstances which forcibly mark the quality, and go to decide the character of the transaction, are left out. They passed before us: we were witnesses of them, and since, in our present discussion, they have been brought fresh to our recollection by a minute and faithful recital of them. Can gentlemen say those circumstances are not essential to the forming a true and correct estimate of the transaction? And if so, how can we justify a vote in favor of the resolution, when there is left out of it facts important to the true and correct state of the whole case? The resolution implies censure. It is not merited. Taking everything into consideration, no one can suppose that the honorable gentleman whose conduct is impeached was actuated by improper views. I do not believe that he had any idea of violating the confidence enjoined by the Senate's rule; what may be said is, that there has been a want of that circumspectful attention to its injunctions that their peremptory nature re-

quired. He has offended in the letter. If he had other than honest and fair views, why did he read the documents in the open and public manner he had done, first naming each of them and commenting on their contents as he proceeded? And are not the previous circumstances so often mentioned, naturally leading to the proceeding, and the silence of the Senate on the occurrence while passing before us to be taken into account? The honorable gentleman from Georgia (Mr. CRAWFORD) with a candor which marks his conduct, says that he does not believe that there was a criminal intent to violate the rule. If I understood him he placed it on the grounds I am disposed to consider it; as proceeding from want of circumspection, indiscretion, and not from intention. Believing this, sir, I cannot consent to place on the records a resolution which goes unquestionably in its nature to censure the conduct of the honorable gentleman, and without any of the accompanying circumstances which mark the character of the whole transaction. While we seek to maintain inviolate the order and dignity of the body of which we are members, we ought not to overlook those considerations of respect and justice which are due to every individual member.

In respect to our proceedings on this resolution, so far as they relate to the Senate, and what best comports with our own honor, permit me to ask of gentlemen, whether we are not attaching to the act an importance in the public view greater than it really merits.

This resolution will give to the occurrence a consequence, which it could acquire only by our own act, and, instead of protecting, we shall sacrifice our honor. Will not our proceedings partake of an oppressive severity, rather than of the liberality, candor and justice, the case under all its circumstances demands? No public interest has been prejudiced, at home or abroad. Nothing has been revealed which it was necessary or important longer to keep secret.

There is due from each member of the Senate, to all the members, that candor and liberality which may give to our proceedings such a spirit of harmony and consistency, as, however we may differ on great questions, will leave us to discuss subjects here, with that attention and deliberation which serves the great interests of the country. But if, on unintentional violations of the rules of the House, and in their letter only, we bring forward and record on our journals particular propositions pointing to the fact itself, and conveying censure, instead of promoting we shall derogate from the order and harmony of our proceedings, and the dignity and honor of the Senate.

Believing, as I do, that whatever infraction of the rule has taken place has been merely in the letter, proceeding not from intention but from want of circumspection and discretion, that no public interest has been prejudiced by the transaction, and none will be promoted by the resolution, I cannot give to it my assent.

MR. PICKERING.—Mr. President, I am much obliged by the liberal sentiments expressed to-

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wards me by my friend at my right hand, (Mr. Goodrich,) but I do not feel willing to consider the act which is the subject of the resolution as an indiscretion. I know, sir, my own frailty; and am far from intimating that I am above the commission of an indiscretion: but I do feel that I have committed none in the present case.

There are two ways, sir, in which the assent of an individual or of a body of men may be given; by words—or by their silence. I have stated the object of my reading the papers adverted to, and the circumstances which accompanied the same; and not doubting that the gentlemen who, with me, were members of the Senate at the times when those papers were laid before us, know that they were confidentially communicated, and yet made no objection to the reading of them—I naturally inferred that the Senate assented to the act: Under these circumstances I cannot view it as an indiscretion.

The question on the resolution, as amended, by leaving out the word "palpable," was then decided in the affirmative—yeas 20, nays 7, as follows:

YEAS—Messrs. Anderson, Brent, Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, German, Gilman, Leib, Mathewson, Read, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Whiteside.

NAYS—Messrs. Bradley, Champlin, Dana, Goodrich, Horsey, Lambert, and Lloyd.

THURSDAY, January 3.

Mr. CAMPBELL gave notice that to-morrow he should ask leave to bring in a bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the Territory of Michigan.

The bill, entitled "An act making an additional appropriation to supply the deficiency in the appropriation for the relief and protection of distressed American seamen during the year 1810," was read the third time; and, on motion, by Mr. LLOYD, it was agreed, by unanimous consent, to amend the bill, so as to make the appropriation "seventy-six thousand dollars."

*Resolved*, That this bill pass with an amendment.

On motion, by Mr. POPE, the bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company was referred to a select committee, to consider and report thereon; and Messrs. POPE, ANDERSON, and BRADLEY, were appointed the committee.

The bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana," was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. CAMPBELL, CRAWFORD, GREGG, BRADLEY, and DANA, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to suspend the second section of the act, entitled 'An act regulating foreign

coins, and for other purposes," with amendments, in which they desire the concurrence of the Senate. They have also passed a bill, entitled "An act providing for the removal of the Land Office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river;" in which bill they desire the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The amendments of the House of Representatives to the bill, entitled "An act to suspend the second section of the act, entitled 'An act regulating foreign coins, and for other purposes,'" were read.

On motion, by Mr. BRADLEY, the further consideration thereof was postponed, and the amendments ordered to be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to fix the compensation of the additional Assistant Postmaster General," together with the amendment reported by the select committee; and, having agreed thereto, the President reported the bill to the House amended accordingly. On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to continue in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers.'"

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to authorize the Secretary of War to ascertain and settle, by the appointment of commissioners, the exterior line of the public land at West Point with the adjoining proprietor;" and on motion, by Mr. SMITH, of New York, it was referred to a select committee, to consider and report thereon; and Messrs. SMITH, of New York, BRADLEY, and DANA, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill declaring the laws now in force in the Territory of Orleans, to extend to, and to have full force and effect to, the river Perdido, pursuant to the treaty concluded at Paris, on the 30th day of April, 1803, and for other purposes; and on motion, by Mr. FRANKLIN, the galleries were cleared and the doors of the Senate Chamber closed.

A confidential Message was received from the President of the United States.

The doors of the Senate Chamber were opened; and on motion, by Mr. BRADLEY, the further consideration of the bill last mentioned was postponed until to-morrow.

FRIDAY, January 4.

Mr. CAMPBELL asked and obtained leave to bring in a bill to authorize the surveying and ma-

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king of certain roads in the State of Ohio, as contemplated in the treaty of Brownstown, in the Territory of Michigan; and the bill was read and passed to the second reading.

Mr. CUTTS, from the committee, reported the amendment to the bill, entitled "An act to fix the compensation of the additional Assistant Postmaster General," correctly engrossed; and the bill was read the third time as amended.

*Resolved*, That this bill pass with an amendment.

The PRESIDENT communicated a report of the Secretary of War on the sale of public arms to individual States, as authorized by the act of the second of April, 1808, entitled "An act to authorize the sale of public arms;" which was read, and ordered to lie for consideration.

Mr. LEIB presented the memorial of John Boren, W. John Duane, and R. C. Weightman, submitting a proposal for printing the laws of the United States, upon conditions therein stated; and the memorial was read, and referred to a select committee, to consider and report thereon; and Messrs. LEIB, GOODRICH, and HORSEY, were appointed the committee.

Mr. LEIB submitted the following motion:

*Resolved*, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the money appropriated by the "Act making a further appropriation for support of a library," passed the 21st of February, 1806; and that the Secretary give information thereof to the House of Representatives.

The bill, entitled "An act to continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time, and passed.

The bill, entitled "An act for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the register, and receiver of public moneys to superintend the public sales of land in the district east of Pearl river," was read the second time.

The bill for the benefit of seamen of the United States was read the second time, and on motion, by Mr. LLOYD, the further consideration thereof was postponed until Tuesday next.

On motion by Mr. HORSEY,

*Resolved*, That the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company be referred to a select committee, to consider and report thereon.

*Ordered*, That Messrs. HORSEY, FRANKLIN, and CONDIR, be the committee.

MONDAY, January 7.

JAMES A. BAYARD, from the State of Delaware, took his seat in the Senate.

The PRESIDENT communicated the report of the Secretary of War on the expenditures of the

moneys appropriated for the contingent expenses of the Military Establishment for the year 1810, in conformity to the fifth section of the act of third March, 1809, further to amend the several acts for the establishment of the Treasury, War, and Navy Departments; which was read for consideration.

The Senate resumed the motion made the 4th instant, on the subject; and

*Resolved*, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the moneys appropriated by the "Act making a further appropriation for the support of a library," passed the 21st of February, 1806; and that the Secretary give information thereof to the House of Representatives.

*Ordered*, That Messrs. LEIB, SMITH of Maryland, and CONDIR, be the committee on the part of the Senate.

The bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the Territory of Michigan, was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. CAMPBELL, BRADLEY, and GREGG, were appointed the committee.

Mr. DANA presented the petition of William Mills, a debtor in confinement at the suit of the United States in the jail at Haddam, in the State of Connecticut, praying the interposition of Congress on his behalf, for reasons therein mentioned; and the petition was read.

The bill to incorporate the Bank of Potomac, and the bill to incorporate the Bank of Washington; also, the bill to incorporate the subscribers to the Farmers' Bank of Alexandria, were severally postponed.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the register and receiver of public moneys to superintend the sales of public land in the district East of Pearl river;" and, on motion by Mr. CAMPBELL, the bill was referred to a select committee, to consider and report thereon; and Messrs. CAMPBELL, FRANKLIN, and BAYARD, were appointed the committee.

A message from the House of Representatives informed the Senate that the House disagree to the amendment to the bill, entitled "An act to fix the compensation of the additional Assistant Postmaster General."

The Senate proceeded to consider the amendment disagreed to by the House of Representatives to the bill, entitled "An act to fix the compensation of the additional Assistant Postmaster General."

*Resolved*, That the Senate recede from their amendment to the said bill.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act to suspend the second

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section of the act, entitled 'An act regulating foreign coins, and for other purposes;' and, on motion, by Mr. LLOYD, they were referred to a select committee, to consider and report thereon; and Messrs. LLOYD, BRADLEY, and SMITH of Maryland, were appointed the committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES;

*To the Senate and House of*

*Representatives of the United States:*

I communicate, for the information of Congress, the report of the Director of the Mint, of the operation of that establishment during the last year.

JAMES MADISON.

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The Message and report were read, and ordered to lie for consideration.

The Senate resumed the consideration of the bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia; and, on motion, by Mr. LEIB, the consideration thereof was further postponed.

On motion, by Mr. CLAY, the galleries were cleared, and the doors of the Senate Chamber closed.

TUESDAY, January 8.

THOMAS WORTHINGTON, appointed a Senator by the Legislature of the State of Ohio, in place of RETURN JONATHAN MEIGS, resigned, produced his credentials, which were read; and the oath prescribed by law having been administered to him, he took his seat in the Senate.

Mr. HORSEY, from the Committee to whom was referred the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, reported it without amendment.

Mr. GREGG presented the petition of Isaac Wayne, son and executor of the late Major General Anthony Wayne, praying remission of certain sums found against the estate of his father on settlement of his account with the Treasury officers, for reasons therein stated; and the petition was read, and referred to a select committee, to consider and report thereon by bill or otherwise.

Messrs. GREGG, PICKERING, and REED, were appointed the committee.

The PRESIDENT communicated a letter signed Adam Seybert, in behalf of the committee appointed by the House of Representatives to provide for the safe-keeping of the books in the library belonging to Congress, stating that they are in great danger of being ruined in consequence of leaks in the roof of the building, and asking permission to place them for a time in one of the committee rooms belonging to the Senate; and the letter was read.

*Resolved*, That the Senate comply with the request contained therein, and assign their largest committee room for the purpose.

Mr. SMITH of Maryland, from the committee appointed on the 9th December, on the subject, reported a bill making further provision for the

corps of engineers; which was read, and passed to the second reading.

Mr. LLOYD presented the petition of Nathaniel F. Fosdick, late collector of the district of Portland and Falmouth, now in confinement, at the suit of the United States, in Portland, in the District of Maine, and praying the interposition of Congress on his behalf, for the reasons therein stated; and the petition was read and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. LLOYD, BRADLEY, and CUTTS, were appointed the committee.

BANK OF THE UNITED STATES.

Mr. SMITH of New York, presented the memorial of the President and Directors of the Bank of New York, praying a renewal of the charter of the Bank of the United States, for reasons therein stated; and the memorial was read, and referred to the committee appointed on the 18th December, to consider the petition of the President and Directors of the Bank of the United States, on the same subject. The memorial is as follows:

*To the Senate and House of Representatives of the United States, the memorial of the President and Directors of the Bank of New York, respectfully sheweth:*

That, viewing with solicitude the question now before your honorable Houses, for the renewal of the charter of the Bank of the United States, they feel it their duty to express, with all submission, their sentiments upon the subject.

They will not presume to enter into any general discussion of the utility of banking institutions, but will confine their observations to those points, which their situation, as directors of a bank, gives them, perhaps, peculiar advantages in judging of.

They view the institution of the Bank of the United States as highly useful to the State banks. From the extent of its capital, its numerous branches, and, above all, from the protection of the Government, it is enabled to facilitate remittances to every part of the United States, to equalize the balance of specie capital among the different cities, and, in cases of any sudden pressure upon the merchants, to step forward to their aid, in a degree which the State banks are unable to do. It is also able to assist any State institution, which, from peculiar circumstances, may require it.

The Bank of New York having been established prior to the incorporation of the Bank of the United States, the directors have witnessed, from the very commencement of the branch bank in this city, the influence of such an institution, as well as the conduct of those to whose management it has been intrusted during that whole period, and your memorialists declare, with confidence, that, in their opinion, that power has been uniformly exerted with prudence; as it respected the public; with great liberality as it respected other institutions.

At any period, great inconveniences must result from the sudden withdrawing a considerable portion of the active capital of a commercial country; but, in the opinion of your memorialists, such an event would be attended with peculiar distress, at the present time, when, from the aggressions of foreign Governments, such immense sums have been sequestered, and, in various ways, detained in Europe, and when the mer-



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chants, from the embarrassments of commerce in almost every quarter, are deprived of their usual resources. It is well known that there never has been a greater demand for money in the commercial cities than at the present time, although it appears that the Bank of the United States has not yet commenced that reduction of its loans, which must take place, in the case of the charter not being renewed. The demands already made upon the State banks have pressed them to their utmost limits, and, from these causes, they will be utterly unable to supply, in any considerable degree, that aid which has hitherto been afforded by the Bank of the United States. The consequences must be, very great and individual distress, and heavy losses, as well to the revenue as to all the moneyed institutions. The renewal of the charter of the Bank of the United States will render such reductions unnecessary, and by relieving the apprehensions now excited through almost every class of the community, restore that confidence so essential to the system of public credit, under which the United States have so much prospered.

Your memorialists, therefore, cannot but hope and solicit that the charter of the Bank of the United States may be renewed.

M. CLARKSON, *President*.

Attest: CHARLES WILKES, *Cashier*.

On motion, by Mr. CLAY, the galleries were cleared, and the doors of the Senate Chamber closed.

WEDNESDAY, January 9.

Mr. LLOYD presented the petition of Ebenezer Rollins, of Boston, in the State of Massachusetts, praying the interposition of Congress on his behalf in relation to debentures on a parcel of coffee by him exported, on board the ship Rebecca Coffin, to Gottenburg, withheld by the collector of the port of Boston, owing to informalities arising from causes beyond his control, as is stated in the petition; which was read, and referred to the committee to whom was referred, on the 24th of December, the bill, entitled "An act for the relief of George Armroyd and Co.," to consider and report thereon.

The PRESIDENT communicated the report of the Secretary of the Navy on the expenditures and application of the moneys drawn from the Treasury from the 1st of October, 1809, to the 30th of September, 1810, inclusive, made in obedience to the first section of the act passed the 3d of March, 1809, entitled, "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments;" and the report was read for consideration.

On motion, by Mr. CLAY, the galleries were cleared, and the doors of the Senate Chamber closed.

THURSDAY, January 10.

The bill making further provision for the corps of engineers was read the second time.

On motion, by Mr. POPE, the galleries were cleared and the doors of the Senate Chamber closed; and after the consideration of the Executive and confidential business, the doors of the Senate Chamber were opened.

Mr. SMITH, of New York, presented the memorial of a number of citizens of the United States residing in the city of New York, signed, in their behalf, M. Clarkson, chairman, and praying an extension of the charter of the Bank of the United States, for reasons therein stated; and the memorial was read, and referred to the committee appointed on the 18th of December to consider the petition of the President and Directors of the Bank of the United States on the same subject.

The Senate resumed, as in Committee of the whole, the bill to incorporate the Bank of Washington; and the further consideration thereof was postponed until to-morrow.

GENERAL WAYNE.

Mr. GREGG, from the committee to whom was referred the petition of Isaac Wayne, son and executor of the late Major General Anthony Wayne, made report; which was read; and the report, together with the petition, ordered to be printed for the use of the Senate. The Committee report as follows:

That they have considered the said memorial, in which are stated the several items, charged in the public accounts against the deceased, and from which the memorialist prays the estate of the deceased may be relieved; and several other items for which he conceives the deceased entitled to credit. That the grounds on which this relief and allowance are prayed for, being distinctly stated in the memorial, the committee desire it may be considered as a part of their report; adding only that they have examined voluminous documents produced by the memorialist, which confirm those statements. The committee being, therefore, of opinion that he is justly entitled to the relief and allowance prayed for, they further beg leave to report a bill for that purpose.

WASHINGTON, January 7, 1811.

*To the honorable the Senate, and the honorable the House of Representatives of the United States of America in Congress assembled, humbly shews:*

Isaac Wayne, son and executor of the late Major General Anthony Wayne, that his father, after a life distinguished by services rendered to the United States, died on the 15th day of December, 1796, at Fort Erie; that his letter-books and original entries, and most of his private papers, were, owing to the place and circumstances in which he died, wholly lost to his family, though every exertion has been made by his executor to recover them.

That soon after his death, your petitioner personally, and subsequently by letter, applied at the Department of War for a statement of his accounts; but, owing to the obscurity and uncertainty in which they were enveloped by the place and circumstances of his father's death, he was never able to obtain such a statement; and in the daily hope that time would put into his possession satisfactory vouchers, to enable him to substantiate his claim for that balance, which, he had reason to believe, was due to him from the United States, he postponed an ultimate settlement. But in that hope he has been disappointed; and the Comptroller of the Treasury, having called upon him, through the district attorney of the United States, for the payment of an apparent balance, on the books of the Treasury, he is necessitated, for the allowance of claims resulting from evidence in the possession of

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your petitioner, (for which, however, the vouchers required by law, or official rules, are insufficient,) to resort to the justice and equity of the Congress of the United States; in the extension of which, towards him, he relies with full confidence, after the particulars on which his claim is founded have been distinctly spread before them.

This your petitioner solicits liberty to do, in the present memorial, not only out of regard to the interest of the heirs of General Wayne, who have a deep stake in the result, but also from respect to an officer not more distinguished for his courage and capacity in the field than for his delicacy and precision for all the pecuniary concerns of his department.

The difficulties attending the settlement of his accounts arise from three items, charged by the officers of the Treasury, erroneously, in the opinion of your petitioner, and by the refusal to allow certain claims for compensation and advances, just and necessary in their nature, though not supported by legal vouchers; the want of which results from the nature of the service, or the circumstances attending the death of General Wayne.

The first item, to which your petitioner objects, is a charge of \$629 11. This charge is founded on an order, drawn by General Wayne, in favor of Captain Zebulon Pike, a sub-legionary major *pro tempore*, which, according to the rules of the Department of War, cannot be allowed, there having been a sub-legionary major then existing. But your petitioner, to repel this charge, has this evidence: that Captain Isaac Guion, the regular sub-legionary major, was taken out of actual service by civil and military process; that the commander had an authority to supply the vacancy thus created; and that such appointment *pro tempore* took place, and was necessary, inasmuch as it was made in the month of May, 1794, when the army was about to march into the Indian country upon the great service of that year.

The second item of charge, to which your petitioner objects, amounts to \$205 04, and is founded on an order in favor of Major Thomas Hughes. This charge has been debited to General Wayne, because it was for pay and emoluments allowed to Hughes after resignation, to which time only, according to the rules of the office, he was entitled to them. To this your petitioner is enabled to reply, that when Major Hughes resigned, he was in the Indian country, and that the allowance for pay and emoluments after that period was for the time necessary to enable him to reach the residence of his family; and that this allowance had always been made in like cases by the predecessors of General Wayne.

The third item is for meal, flour, liquor, and small parts of rations, drawn from the commissary general at Greenville, Miami, and Detroit, in August, September, and November, 1796, amounting to \$1,781 45. Concerning this charge, your petitioner has only to observe that General Wayne was, during those months, at those posts, surrounded by crowds of starving and necessitous Indians, which it was the policy of the United States, and his duty, not to allow to suffer while in their garrisons. From the time, manner, and place of General Wayne's death; from the known fact that he never drew, at any time during his command, public rations for his private table; from the long period which has elapsed without any fault of his representatives; and from the other circumstances in his case, your petitioner confidently relies that the ac-

counting officers will be directed to credit General Wayne's estate for the full amount of this item.

The first claim for allowance made by your petitioner, as representative of General Wayne, and which the officers of the Treasury do not deem themselves authorized to pass to his credit, is a charge for compensation, as sole commissioner, appointed for negotiating a treaty with the western Indians. It appears by an account current, filed in the office of the Department of War, on the 4th of June, 1796, that General Wayne charged the United States with five hundred and thirty-four days' services, in that negotiation, at eight dollars the day, being the statute allowance; and that, by a certificate annexed, he declared upon honor, in these words, "that the sum mentioned for my actual service as sole commissioner to treat with the Indian tribes northwest of the Ohio, (and which I believe are made agreeably to the uniform usage and practice, and supported by precedent upon similar occasions,) would not compensate me for the extra labor and expenses necessarily attending that arduous and interesting business." The objection made against this allowance is founded on an opinion given, as is supposed, by one of the Attorney Generals of the United States objecting to the allowance, because General Wayne had not "stated each day actually employed in pacific negotiation." To which the petitioner has only to reply that such a detailed statement was manifestly impossible. That General Wayne, during all that time, was employed in both the offices of Commander-in-chief, and of commissioner; that he has it in his power to show that, from the day of his receiving his commission, to the day of his completing the treaty, he was engaged in successive acts of negotiation; and that it could not be expected, in such a service, that he should make a daily entry, when he made use of the sword, and when he presented the olive branch.

Your petitioner has also further to state, that General Wayne, immediately after filing the above account and making the above certificate, was ordered upon services of a secret and critical nature, and that he never afterwards returned to his family, dying in the western wilderness, as has been stated. All which circumstances being taken into your wise and just consideration, will, your petitioner confidently hopes, induce your honorable body to authorize the proper accounting officer to pass that sum also to the credit of General Wayne.

Another claim, resulting from the evidence in the possession of your petitioner, but which is legally insufficient to justify the officers of the Treasury in allowing it, is for the amount of \$1,500. The evidence on which this rests is a certificate of General Wayne, made on the 10th day of June, 1796, the day on which he left his family for the last time. It being precautionary in its nature, and for extra expenses on account of the Indians, at the treaty, while engaged as commissioner, your petitioner has no other voucher than that certificate, the known circumstances of that negotiation, and the express provisions of the act of Congress contemplating such an expenditure.

The last claim is for an allowance on account of moneys expended on the service in which he died, being for contingencies of secret service and the Indian department. It appears, by the certificate last mentioned, that, for these purposes, on the 8th day of June, 1796, General Wayne received from the Secretary of War \$3,000, for which he was to account.

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Your petitioner is prepared to prove, that, on the 10th of the same June, he proceeded to the execution of his orders, on a concern of a very delicate, confidential, and important nature; that he completed the objects of his mission; that, in the course of it, he must have expended considerable sums for the objects on account of which the advance was made; that the nature of the service made such advances inevitable; and that, on the death of General Wayne, not a single dollar of money of any description was found in his possession.

When all these circumstances are taken into consideration; when the peculiar accuracy of his character, and his high principles of honor, in relation to public moneys intrusted to him, are recollected; when it is known that he was seized in the midst of actual service, in full health, by a disorder which, "at once disqualified him from speaking concerning all temporal concerns;" and that the time and place of his death have precluded absolutely his representatives from obtaining his letter books, and most of his private papers; your petitioner has an entire reliance that your honorable body will not deem a claim of an allowance, equal to the whole amount of the last mentioned advance, inequitable or unreasonable.

Your petitioner could recur to other circumstances than those which are thus detailed in his petition. He could state that his father, after many years devoted to public service, without any charge of extravagance or dissipation in pecuniary concerns, left only to his children a real estate received from his ancestors. He could recur to the nature of those services, as eminent as they were useful; but to name them would be to intimate that they could be forgotten by his country. His son, your petitioner, can only express his perfect confidence that the wisdom and justice of the National Legislature will relieve the settlement of the account of so distinguished a citizen and soldier from merely formal embarrassments, and extend to it the principles of a liberal policy and extensive equity.

ISAAC WAYNE,

*Legal representative of the late  
Major General Wayne.*

Mr. GREGG also further reported a bill for the relief of the heirs of the late Major General Anthony Wayne; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company; and, after progress, the Senate adjourned.

FRIDAY, January 11.

The Senate resumed the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill for the benefit of seamen of the United States; and, on motion, by Mr. DANA, it was referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. DANA, LLOYD, BRADLEY, GILMAN, and SMITH, of Maryland, were appointed the committee.

Mr. CAMPBELL, from the committee to whom was referred the bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the Territory of Michigan, reported the bill with an amendment.

Mr. LEIB, from the committee to whom was referred the bill, entitled "An act for the relief of George Armroyd and Co." reported the bill without amendment.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the corps of engineers. On the question, Shall this bill be engrossed and read a third time? it passed in the affirmative.

Mr. LEIB, from the committee to whom the subject was referred, on the 9th instant, asked and obtained leave to bring in a bill for the relief of Ebenezer Rollins; and the bill was read and passed to the second reading.

On motion, by Mr. CHAMPLIN, the galleries were cleared, and the doors of the Senate Chamber closed; and having considered the confidential business, the doors were opened.

The bill for the relief of the heirs of the late Major General Anthony Wayne was read the second time; and on motion, by Mr. LEIB, it was agreed that it be made the order of the day for tomorrow.

Mr. POPE, from the committee to whom was referred the bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company, reported it without amendment. On the question, Shall this bill be engrossed and read a third time? it passed in the affirmative.

SATURDAY, January 12.

The PRESIDENT communicated the report of the Secretary of War, in compliance with the act of the 21st of April, 1808, of two statements comprehending contracts made by the Secretary of War and those made by the Purveyor of Public Supplies; and the report was read.

Mr. CUTTS, from the committee, reported the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company correctly engrossed; and the bill was read the third time, and passed.

Mr. CUTTS, from the committee, reported the bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company correctly engrossed; and the bill was read the third time, and passed.

Mr. CUTTS, from the committee, also reported the bill making further provision for the corps of engineers correctly engrossed; and the bill was read the third time; and on motion, by Mr. SMITH, of Maryland, the blank was filled with the words "fifteen thousand."

On motion, by Mr. BRENT, that the bill be committed to a select committee, to consist of five members, further to consider and report thereon, it was determined in the affirmative—yeas 16, nays 13, as follows:

YEAS—Messrs. Bradley, Brent, Campbell, Clay,

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Condit, Crawford, Dana, Franklin, Gaillard, Gregg, Pope, Reed, Tait, Taylor, Whiteside, and Worthington.

**NAYS**—Messrs. Champlin, Cutts, German, Gilman, Goodrich, Lambert, Leib, Lloyd, Mathewson, Pickering, Robinson, Smith of Maryland, and Smith of New York.

*Ordered*, That Messrs. SMITH of Maryland, BRENT, GILMAN, BRADLEY, and CRAWFORD, be the committee.

The bill for the relief of Ebenezer Rollins was read the second time.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of George Armroyd and Co.;" and the bill was passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill for the relief of the heirs of the late Major General Anthony Wayne. On the question, Shall this bill be engrossed and read a third time? it passed in the affirmative. The bill was then read the third time by unanimous consent, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I transmit to Congress copies of a letter from the Minister Plenipotentiary of the United States at London, to the Secretary of State, and of another from the same to the British Secretary for Foreign Affairs.

JAMES MADISON.

JANUARY 12, 1811.

The Message and communications were read and ordered to be printed for the use of the Senate.

On motion by Mr. CUTTS, the galleries were cleared, and the doors of the Senate Chamber closed.

MONDAY, January 14.

JAMES TURNER, from the State of North Carolina, took his seat in the Senate.

The Senate resumed, as in Committee of the Whole, the bill to incorporate the Bank of Potomac; and the President having reported it to the House as amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to incorporate the Bank of Washington; and the President having reported it to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I transmit to Congress a report from the Surveyor of the Public Buildings, relative to the progress and present state of them.

JAMES MADISON.

JANUARY 14, 1811.

The Senate resumed, as in Committee of the Whole, the bill to incorporate the subscribers to the Farmers' Bank of Alexandria; and the President having reported it to the House amended,

on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Message and report were read and ordered to lie for consideration.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I transmit to Congress an account of the contingent expenses of the Government for the year one thousand eight hundred and ten.

JAMES MADISON.

JANUARY 14, 1811.

The Message and report were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate for the appointment of a joint committee on the arrangements for the Library, and have appointed a committee on their part.

The PRESIDENT communicated the report of the Secretary of War, in compliance with the fifth section of the act to regulate and fix the compensation of clerks, passed the 21st April, 1806; which was read, and ordered to lie for consideration.

On motion, by Mr. WORTHINGTON,

*Resolved*, That a committee be appointed to inquire if any, and, if any, what, further provisions or alterations are necessary for the disposition of the public lands of the United States, and that they have leave to report by bill or otherwise.

*Ordered*, That Messrs. WORTHINGTON, POPE, and BRADLEY, be the committee.

On motion, by Mr. CRAWFORD,

*Resolved*, That the letter from the Secretary of the Treasury, transmitting a statement of claims allowed at the Treasury Department, and his report, prepared agreeably to a resolution of the Senate of May 1st, 1810, on claims barred by the limitations heretofore established, be referred to a select committee.

*Ordered* That Messrs. CRAWFORD, GOODRICH, BRADLEY, CONDIT, and FRANKLIN, be the committee.

The Senate resumed, as in Committee of the Whole, the bill to authorize the surveying and making certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the Territory of Michigan, together with the amendment reported by the select committee; and having agreed thereto, the President reported the bill to the House amended accordingly. On the question, Shall this bill be engrossed and read a time as amended? it was determined in the affirmative.

On motion, by Mr. BRADLEY, the galleries were cleared, and the doors of the Senate Chamber closed.

TUESDAY, January 15.

The engrossed bill to incorporate the Bank of Potomac was read the third time, and passed.

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Mr. CUTTS, from the committee, reported the bill to incorporate the Bank of Washington correctly engrossed; and the bill was read the third time, and passed.

Mr. CUTTS, from the committee, also reported the bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the Territory of Michigan, correctly engrossed; and the bill was read the third time and passed.

The bill, entitled "An act for the relief of George Armroyd and Company," was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Ebenezer Rollins. On the question, Shall this bill be engrossed and read a third time? it passed in the affirmative.

Mr. GILMAN, from the committee, reported the bill to incorporate the subscribers to the Farmers' Bank of Alexandria correctly engrossed; and the bill was read the third time, and passed.

Mr. BRADLEY presented the petition of Eugene de Leitzendorfer, a native of Tyrol, now a citizen of the City of Washington, in the District of Columbia, stating that he served as Inspector General and Chief Engineer, in the army of General Eaton in Barbary, without receiving any compensation, and praying a portion of land may be assigned him, or some pecuniary compensation, as a reward for his services, for reasons stated at large in the petition; which was read, and referred to a select committee, to consider and report thereon by bill or otherwise, and Messrs. BRADLEY, GREGG, and SMITH of Maryland, were appointed the committee.

The galleries were then cleared, and the doors of the Senate Chamber closed.

#### WEDNESDAY, January 16.

Mr. SMITH of Maryland, from the committee appointed on the subject, reported a bill to incorporate the Union Bank of Georgetown; which was read, and passed to a second reading.

Mr. HORSEY, from the committee, reported the bill for the relief of Ebenezer Rollins correctly engrossed; and the bill was read the third time, and passed.

Mr. LLOYD, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act to suspend the second section of the act, entitled 'An act regulating foreign coins, and for other purposes,'" reported disagreement thereto.

On motion, by Mr. BRADLEY, it was agreed that the consideration thereof be the order of the day for to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to enable the people of the Territory of Orleans to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," in which bill they desire the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. SMITH of New York, from the committee to whom was referred the bill, entitled "An act to authorize the Secretary of War to ascertain and settle, by the appointment of commissioners, the exterior line of the public land at West Point, with the adjoining proprietor," reported the bill without amendment, and it was ordered to the third reading.

Mr. LEIB, from the committee to whom was referred the bill for the establishment of a quartermaster's department, reported it without amendment, and the bill was considered as in Committee of the Whole. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. DANA, from the committee appointed to consider the subject, reported a bill concerning the communication by water along the northern confines of the United States; and the bill was twice read by unanimous consent, and made the order of the day for Friday next.

#### THURSDAY, January 17.

The Senate assembled; and, on motion, by Mr. GILMAN, adjourned to eleven o'clock to-morrow morning.

#### FRIDAY, January 18.

Mr. LEIB, from the committee to whom was referred, on the 4th instant, the petition of John Bioren and others, on the subject, asked and obtained leave to bring in a bill authorizing a subscription for the laws of the United States, and for the distribution thereof. And the bill was read, and passed to the second reading.

The bill to incorporate the Union Bank of Georgetown was read the second time.

The bill, entitled "An act to enable the people of the Territory of Orleans to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes;" was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. TAFT, BAYARD, GOODRICH, CLAY, and GREGG, were appointed the committee.

Mr. LLOYD submitted the following motion:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate an account of all the property heretofore belonging to the Government, or any of the citizens or subjects of Great Britain or France, or their dependencies; which has been confiscated under the operation of the act of the United States, of March 1st, 1809, "to interdict the commercial intercourse between the United States and Great Britain and France," or under the law of the 1st of May, 1810, relative to an intercourse between the United States and the said countries; also, an account of the goods, wares, and merchandise, imported into the United States from foreign countries, between the first of April, 1809, and 31st December, 1810, distinguishing between the amount imported in

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American and foreign vessels, and specifying the countries to which the latter belonged.

The bill, entitled "An act to authorize the Secretary of War to ascertain and settle, by the appointment of commissioners, the exterior line of the public land at West Point, with the adjoining proprietor," was read the third time, and passed.

Mr. TAYLOR submitted the following motion :

*Resolved*, That a committee be appointed to inquire into the expediency of authorizing by law the transfer of so much of the stock standing to the credit of any State, pursuant to the report of the Commissioners for settling the accounts between the United States and individual States, and the act passed thereon, entitled "An act making provision for the payment of the interest on the balances due to certain States upon a final settlement of accounts between the United States and the individual States," to creditors of such State, who were such, prior to the 1st of July, 1793, as may be necessary to satisfy their respective demands; and that the said committee have leave to report by bill or otherwise.

The Senate resumed the consideration of the report of the select committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act to suspend the second section of the act, entitled 'An act regulating foreign coins, and for other purposes.'"

On motion, by Mr. CRAWFORD, the further consideration of the bill was postponed to the first Monday in June next.

The engrossed bill for the establishment of a quartermaster's department was read the third time; and the further consideration thereof was postponed to the next session of Congress.

The galleries were then cleared, and the doors of the Senate Chamber closed.

MONDAY, January 21.

On motion, by Mr. LEIR,

*Resolved*, That the joint committee appointed by the Senate and House of Representatives respecting the library belonging to Congress, be directed to inquire into the expediency of making provision for the permanent safe-keeping of the books.

Mr. SMITH of Maryland, presented the memorial of D. Winchester, on behalf of the Baltimore Insurance Company, praying a renewal of the charter of the Bank of the United States, for reasons mentioned at large in the memorial; which was read, and referred to the committee appointed on the 18th of December, to consider the petition of the President and Directors of the Bank of the United States on the same subject.

Mr. BRADLEY presented the petition of Moses Austin and John R. Jones, stating that they have been employed for thirteen years past in the mining and smelting of lead on a tract of land in the Territory of Louisiana, at Mine a Burton, of which they are legally seized in fee by virtue of a grant from the Spanish Government. That for want of funds, they are unable to work the mine, so advantageously to them-

selves and the public, as they (from long experience) are convinced is practicable. That they are desirous of forming a company to raise a capital to enable them to extend their operations, and praying that a law may be passed incorporating them, and such other persons as shall hereafter subscribe to the said institution. And the petition was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. BRADLEY, GREGG, and FRANKLIN, were appointed the committee.

Mr. BRADLEY, from the committee to whom was referred, on the 15th instant, the petition of John Eugene Leitzendorfer, reported a bill making compensation to John Eugene Leitzendorfer, for services rendered to the United States in the war with Tripoli; which was read, and passed to a second reading.

The PRESIDENT laid before the Senate the memorial of the Legislative Council and House of Representatives of the Indiana Territory, praying sundry modifications of the law relating to the public lands of the United States, the remission of the interest upon instalments which have not been paid up, and that the purchasers be allowed a further time for payment, for reasons stated at large in the memorial; which was read, and referred to the committee appointed the 14th instant, to inquire what further provisions or alterations are necessary for the disposition of public lands of the United States.

Mr. LLOYD, from the committee appointed the 8th instant on the petition of Nathaniel F. Fosdick, reported a bill authorizing the discharge of Nathaniel F. Fosdick from his imprisonment; which was read, and passed to a second reading.

On motion, by Mr. DANA, the petition of William Mills, presented on the 7th instant, was referred to a select committee, to report thereon by bill or otherwise; and Messrs. DANA, TAYLOR, and GILMAN, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill to incorporate the Union Bank of Georgetown; and the President having reported it to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill concerning the communication by water along the confines of the United States, and the President having reported it to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed the consideration of the motion made on the 18th instant, by Mr. LLOYD; which was agreed to.

The Senate resumed the consideration of the motion made on the 18th instant, by Mr. TAYLOR; which was agreed to; and Messrs. TAYLOR, LLOYD, and BRADLEY, were appointed the committee.

On motion, by Mr. CLAY, (one of the majority,) that the vote of postponement, passed the 18th instant, on the bill for the establishment of a

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quartermaster's department, be reconsidered, it was determined in the negative—yeas 10, nays 16, as follows:

**YEAS**—Messrs. Champlin, Clay, Cutts, Dana, Goodrich, Gregg, Leib, Smith of Maryland, Whiteside, and Worthington.

**NAYS**—Messrs. Bayard, Bradley, Campbell, Condit, Crawford, Franklin, Gaillard, Gilman, Lambert, Lloyd, Mathewson, Pickering, Reed, Tait, Taylor, and Turner.

#### TUESDAY, January 22.

Mr. DANA, from the committee appointed yesterday on the petition of William Mills, reported a bill for the relief of William Mills; which was read, and passed to a second reading.

Mr. CUTTS, from the committee, reported the bill to incorporate the Union Bank of Georgetown, correctly engrossed; and the bill was read the third time, and passed.

Mr. CUTTS, from the committee, reported the bill concerning the communication by water along the northern confines of the United States correctly engrossed; and the bill was read the third time, and passed.

The PRESIDENT communicated the general account of the Treasurer of the United States, from October 1st, 1809, to October 1st, 1810; as, also, the accounts of the War and Navy Departments for the same period; together with the report of the accounting officers of the Treasury thereon; which were read.

Mr. SMITH, of New York, presented the memorial of the Ocean Insurance Company, of the city of New York, praying a renewal of the charter of the Bank of the United States, for reasons mentioned in the memorial; which was read, and referred to the committee appointed the 18th of December, to consider the petition of the President and Directors of the Bank of the United States on the same subject.

The bill making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli, was read the second time.

Mr. CLAY presented the memorial of a great number of mechanics and manufacturers in the State of Kentucky, praying encouragement by protecting duties and otherwise, in the manner and for the reasons therein mentioned at large; and the memorial was read, and ordered to be printed for the use of the Senate.

Mr. ANDERSON presented the petition of Benjamin Stoddert and Thomas Ewell, directors of the Georgetown Potomac Bridge Company, praying that an act may pass, authorizing the directors of the company to call on the stockholders for such additional payments on the shares as will enable the company to repair the bridge, for reasons stated at large in the petition; which was read, and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. ANDERSON, PICKERING, and TAIT, were appointed the committee.

The Senate resumed, as in Committee of the

Whole, the bill to authorize a subscription for the laws of the United States, and for the distribution thereof; and the President having reported it to the House amended, the further consideration thereof was postponed until to-morrow.

#### WEDNESDAY, January 23.

The bill for the relief of William Mills was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to authorize a subscription for the laws of the United States, and for the distribution thereof; and, on motion, by Mr. ANDERSON, it was postponed to the first Monday in December next.

The Senate resumed, as in Committee of the Whole, the bill authorizing the discharge of Nathaniel F. Fosdick from his imprisonment; and, on the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill making compensation to John Eugene Leitzendorfer; and, on motion, by Mr. BRADLEY, it was postponed to Monday next.

Mr. ANDERSON submitted the following motion:

*Resolved*, That a committee be appointed to consider and report whether it be expedient for the United States to give any aid or support to the building of a bridge across the river Susquehanna at Havre de Grace, in the State of Maryland; and that the committee have leave to report by bill or otherwise.

#### THURSDAY, January 24.

The Senate took into consideration the motion submitted yesterday by Mr. ANDERSON, and agreed thereto; and Messrs. ANDERSON, BAYARD, REND, HORSEY, and SMITH, of Maryland, were appointed the committee.

Mr. CUTTS, from the committee, reported the bill authorizing the discharge of Nathaniel F. Fosdick from his imprisonment correctly engrossed; and the bill was read the third time, and passed.

Mr. CUTTS, from the committee, reported the bill for the relief of William Mills correctly engrossed; and the bill was read the third time, and passed.

Mr. CLAY presented the memorial of a number of citizens of the State of Kentucky, praying a renewal of the charter of the Bank of the United States, for reasons mentioned therein; and the memorial was read, and referred to the committee appointed on the 18th of December, to consider the petition of the President and Directors of the Bank of the United States on the same subject.

#### FRIDAY, January 25.

The PRESIDENT laid before the Senate the petition of Eleanor Wilson, on behalf of her husband, Philip Wilson, praying that the claim of her

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husband, for certain stores furnished Commissary General Blain, for the use of his department, may be taken out of the statute of limitation, and that the same may be allowed and paid, for reasons therein mentioned; and the petition was read.

Mr. GREGG presented the petition of Thomas Campbell, stating that he served as a captain in the Revolutionary army; that during the service he received several wounds; and praying relief, for reasons mentioned in the petition; which was read and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. GREGG, BRADLEY, and PICKERING, were appointed the committee.

On motion, by Mr. CRAWFORD,

*Resolved*, That a committee be appointed to inquire into the expediency of making further provision by law for the punishment of crimes committed in the territories possessed by Indian tribes within the limits of the United States and its Territories; and that the said committee have leave to report by bill or otherwise.

*Ordered*, That Messrs. CRAWFORD, BRADLEY, and GOODRICH, be the committee.

#### THE TERRITORY OF ORLEANS.

Mr. TAIT, from the committee to whom was referred the bill, entitled "An act to enable the people of the Territory of Orleans, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and for other purposes," reported the same with the following, among other amendments:

"Strike out the two first sections from the word 'that' in the second line, and insert the following:

"The inhabitants of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris, on the thirtieth day of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: Beginning at the mouth of the river Sabine, thence by a line to be drawn along the middle of the said river, including all islands, to the thirty-second degree of latitude; thence due north, to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the southern boundary of the Mississippi Territory; thence along the said boundary line to Pearl river; thence down the western bank of said river to lake Borgne; thence along the middle of said lake to the Gulf of Mexico; thence bounded by the said gulf to the place of beginning—including all islands within three leagues of the coast; be and they are hereby authorized to form to themselves a constitution and State government, and to assume such name as they may deem proper, under the provisions and upon the conditions hereinafter mentioned: *Provided, nevertheless*, That the Government of the United States hereby retains the power of altering, in any manner it may hereafter deem proper, the limits of all that portion of the said described territory, which lies east of the river Mississippi and the island of New Orleans."

"Add the following section:

"And be it further enacted, That — per centum

of the net proceeds of the sales of the lands of the United States shall be applied, after the — day of — to laying out and constructing public roads and levees in the said State, as the Legislature thereof may require."

On motion, by Mr. TAIT, it was agreed that they be made the order of the day for Monday next.

#### MONDAY, January 28.

Mr. CAMPBELL, from the committee appointed the third instant, on the bill, entitled "An act providing for the final adjustment of claims to lands and for the sale of the public lands in the Territory of Orleans and Louisiana," reported it with amendments; which were read.

Mr. SMITH, of Maryland, from the committee to whom was recommended, on the 12th instant, the bill making further provision for the corps of engineers, reported it with amendments; which were read.

The PRESIDENT communicated the report of the Postmaster General, prepared in obedience to the provisions of the act passed the 21st of April, 1806, entitled "An act to regulate and fix the compensations of clerks, and to authorize the laying out certain public roads, and for other purposes," together with his report, made in obedience to the act of the 21st of April, 1808, concerning public contracts; and the reports were read.

The PRESIDENT also communicated a report from the Secretary of the Treasury on the moneys expended during the year 1810 for the discharge of miscellaneous claims not otherwise provided for, and paid at the Treasury; and a statement of the contracts made during the same year by or under the direction of the Secretary of the Treasury; also, statements of the purchases or payments for supplies made by the collectors during the year 1809 in relation to the revenue and to the temporary relief of seamen; which were read.

Mr. GREGG, from the committee appointed the 25th instant on the subject, reported a bill for the relief of Thomas Campbell; which was read and passed to a second reading.

Mr. WORTHINGTON presented the resolution of the Legislature of the State of Ohio instructing the representation in Congress from that State to use their endeavors to procure an extension of the time for the payment of public lands in certain cases; which was read, and referred to the committee appointed the 14th instant on the same subject.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," together with the amendments reported by the select committee; and on motion, by Mr. CRAWFORD, to strike out of the first amendment reported, the words "southern boundary of the Mississippi Territory; thence, along



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*Confiscation, Importations, &c.*

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the said boundary line, to Pearl river; thence, down the western bank of said river, to Lake Borgne:" it was determined in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Horsey, Lambert, Leib, Lloyd, Mathewson, Pickering, Reed, Smith of Maryland, Smith of New York, Taylor, and Whiteside.

NAYS—Messrs. Campbell, Clay, Cutts, Gregg, Pope, Robinson, Tait, Turner, and Worthington.

On motion, by Mr. CRAWFORD, it was agreed that the bill and amendments be postponed until to-morrow, and be made the order of the day.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and eleven;" a bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1811;" a bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1811;" a bill, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia;" also, a bill, entitled "An act to change the name of Lewis Grant to that of Lewis Grant Davidson;" in which bills they desire the concurrence of the Senate.

The bills last brought up for concurrence were read and severally passed to the second reading.

#### CONFISCATION, IMPORTATIONS, &c.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate a report from the Secretary of the Treasury, on the subject of their resolution of the 21st instant.

JAMES MADISON.

JANUARY 26, 1811.

TREASURY DEPARTMENT, Jan. 24, 1811.

SIR: On the subject of the resolution of the Senate, of the 21st instant, I have the honor to state:

That there are no documents in the Treasury, showing the amount of the property of citizens or subjects of Great Britain or France, which has been confiscated under the operation of the acts of March 1st, 1809, and 1st May, 1810, relative to the commercial intercourse between Great Britain and the said countries.

That the Secretary of the Treasury having been directed, by a resolution of the House of Representatives, to lay before the House, statements embracing amongst others, the object contemplated by the resolution of the Senate, a circular letter was written on the 22d instant to the several district attorneys for the purpose of obtaining the information required; and that the result, so far as it relates to property of British or French subjects, will be laid before you as soon as it shall have been received.

That it appears by the letter from the Register of the Treasury, a copy of which is herewith transmitted, that the account of importations required by the resolution of the Senate, cannot, so far as relates to the year 1810, be prepared during the present session of Congress.

And that the account for the three last quarters of

the year 1809, will be immediately prepared in conformity with the resolution of the Senate.

I have the honor to be, with great respect,

Sir, your obedient servant,

ALBERT GALLATIN.

The PRESIDENT of the U. S.

TREASURY DEPARTMENT,  
*Register's Office, Jan. 23, 1811.*

SIR: I have the honor to submit the following remarks, showing how far the latter clause of the resolution of the Senate of the 21st instant can be complied with.

The importations from foreign countries to the 31st December, 1809, have been collected, and could in a short time be selected so as to meet the object of the resolution.

The accounts of the collectors for the year 1810, having been but partially received, a statement, such as is contemplated, could not be completed in time for the present session of Congress.

If the words in the resolution, "and specifying the countries to which the latter belonged," is meant to apply to the vessels in which the merchandise was imported, it may be complied with; but there is no possibility of ascertaining the countries to which the merchandise belongs, other than the place from whence imported.

Respectfully I have the honor to be, sir, your obedient servant,

JOSEPH NOURSE, *Register.*

The Hon. ALBERT GALLATIN.

The Message and report were read, and ordered to lie for consideration.

TUESDAY, January 29.

The bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and eleven," was read the second time; and, referred to a select committee, to consider and report thereon; and Messrs. FRANKLIN, CRAWFORD, and SMITH of Maryland, were appointed the committee.

The bill, entitled "An act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and eleven," was read the second time and referred to a select committee, to consider and report thereon; and Messrs. WORTHINGTON, BAYARD, and CHAMPLIN, were appointed the committee.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and eleven," was read the second time; and referred to a select committee, to consider and report thereon; and Messrs. SMITH, of Maryland, GREGG, and PICKERING, were appointed the committee.

The bill for the relief of Thomas Campbell was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The bill, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," was read the second time.

## SENATE.

## Orleans Territory—Mississippi Territory.

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The bill, entitled "An act to change the name of Lewis Grant to that of Lewis Grant Davidson," was read the second time.

Mr. BAYARD submitted the following motion:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate copies of any correspondence or communication (which in his opinion may be made public without prejudice to the public welfare) which have taken place between the Executive Government of the United States and the French or Spanish Governments, relative to the territory comprehended within the limits of Louisiana, as ceded by France to the United States by the treaty of April, 1803.

Mr. WORTHINGTON, from the committee appointed the 14th instant, on the subject, reported a bill making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes;" which was read and passed to a second reading.

## TERRITORY OF ORLEANS.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," together with the amendments reported by the select committee; and on motion, by Mr. BAYARD, to strike out the proviso, in the first amendment reported, as follows, to wit:

"Provided, nevertheless, that the Government of the United States hereby retains the power of altering, in any manner it may hereafter deem proper, the limits of all that portion of the said described Territory which lies east of the river Mississippi and the Island of New Orleans;"

And a motion was made by Mr. TARR to amend the proviso by inserting, after the word "that," the following words:

"The Government of the United States hereby retains to itself the power of attaching to the said State any part of the territory lying east of the Mississippi river, south of the Mississippi Territory, and west of the river Mobile:"

And it was determined in the negative—yeas 9, nays 22, as follows:

YEAS—Messrs. Anderson, Clay, Crawford, Cutts, Gregg, Smith of New York, Tait, Taylor, and Turner.

NAYS—Messrs. Bayard, Bradley, Campbell, Champlin, Condit, Dana, Franklin, Gaillard, Gorman, Gilman, Goodrich, Horsey, Lambert, Lloyd, Mathewson, Pickering, Pope, Reed, Robinson, Smith of Maryland, Whiteside, and Worthington.

And the proviso was struck out.

On motion, to agree to the report of the select committee on section 3d, line 1st, by inserting the word "white" before the words "male citizens of the United States:" it was determined in the affirmative—yeas 24, nays 8, follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Champlin, Clay, Condit, Dana, Franklin, Gaillard, Gilman, Goodrich, Gregg, Horsey, Lambert, Leib, Lloyd, Pickering, Reed, Smith of Maryland, Smith of New York, Tait, Taylor, and Worthington.

NAYS—Messrs. Campbell, Crawford, Cutts, Gorman, Mathewson, and Whiteside.

The PRESIDENT reported the bill to the House amended.

The following amendment was proposed by Mr. DANA:

*Provided*, That this act shall not be understood to admit such State into the Union as aforesaid, unless each of the original States shall consent to the same, or there shall be a Constitutional amendment empowering the Congress to admit into the Union new States formed beyond the boundaries of the United States, as known and understood at the time of establishing the Constitution for the United State."

And on his motion, it was agreed to take the question thereon by yeas and nays; and, on motion, by Mr. BAYARD, the further consideration of the bill was postponed until to-morrow.

## MISSISSIPPI TERRITORY.

Mr. ANDERSON presented the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, praying that the said Territory may be admitted as a State into the Union, upon the footing of the original States, and the memorial was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. ANDERSON, BAYARD, and DANA, were appointed the committee.

The memorial is as follows:

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:* The memorial, unanimously adopted, of the Legislative Council and House of Representatives of Mississippi Territory, in General Assembly convened, respectfully states, That by the articles of agreement and cession between the United States and the State of Georgia, an act for the amicable settlement of limits with the State of Georgia, &c. and an act supplemental thereto, the Government of the Mississippi Territory was organized and established, and "all and singular the rights, privileges, and advantages, granted to the people of the United States, northwest of the river Ohio, by an ordinance of the 13th day of July, one thousand seven hundred and eighty-seven, were extended to the people of the Mississippi Territory: And by the said articles of agreement and cession, it is provided "That the Territory thus ceded shall form a State, and be admitted as such into the Union as soon as it shall contain sixty thousand free inhabitants, or at an earlier period, if Congress shall think it expedient."

Your memorialists state, that although they do not pretend to have the number required by the said articles of agreement and cession, and the ordinance, to entitle our Territory as a matter of right into the Union, upon the footing of one of the original States; yet, we hope that our numbers (as will appear by the census now taken under a law of the United States) are sufficiently respectable to induce your honorable body to admit the Mississippi Territory into the Union, as a matter of expediency.

Your memorialists conceive it unnecessary to detail the many reasons which might be adduced in support of their petition, but think it sufficient to say, that, as the people of this Territory are able to bear the expenses of a State government with convenience to themselves, and, at the same time will relieve the Government of

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Territory of Orleans.

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the United States from the cares and expenses incident to the Territorial form of government; and that whatever views the form of government (under which they have, perhaps, not very patiently lived) for about twelve years, was formed, it is found, from experience, to be unfriendly to republicanism; and is such a one, as every American in heart is solicitous to be relieved from. We therefore, pray your honorable body to pass a law authorizing a convention to be called, for the purpose of forming a constitution and State government in the Mississippi Territory, to be admitted into the Union upon the footing of the original States.

Your memorialists, from a knowledge of your indulgence to the people of the Territories northwest of the river Ohio, when in a situation similar to their own, are sanguine in their expectations, that your honorable body will grant to them the prayer of their petition.

And they will ever pray, &c.

F. L. CLAIBORNE,

*Speaker of the House.*

ALX. MONTGOMERY,

*President of Legislative Council.*

Attest: WM. C. WINSTON,

*Clerk House of Reps. M. T.*

WEDNESDAY, January 30.

Mr. SMITH, of Maryland, from the committee appointed yesterday on the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and eleven," reported it without amendment.

Mr. CUTTS, from the committee, reported the bill for the relief of Thomas Campbell, correctly engrossed; and the bill was read the third time, and passed.

Mr. LEIB presented a memorial, subscribed by a great number of the master mechanics and manufacturers of the city and county of Philadelphia, praying a renewal of the charter of the Bank of the United States, for reasons therein mentioned; and the memorial was read, and referred to the committee appointed the 18th of December, on the petition of the President and Directors of the Bank of the United States, on the same subject.

The Senate took into consideration the motion submitted yesterday, by Mr. BAYARD, and, on motion, by Mr. WORTHINGTON, to amend the resolution, by adding thereto the following words, "not heretofore laid before Congress;" it was determined in the negative. And on the question to agree to the resolution, it was determined in the negative—yeas 12, nays 17, as follows:

YEAS—Messrs. Bayard, Bradley, Campbell, Champlin, Dana, Gilman, Goodrich, Horsey, Lloyd, Pickering, Reed, and Worthington.

NAYS—Messrs. Clay, Condit, Cutts, Franklin, Gaillard, German, Gregg, Lambert, Leib, Mathewson, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, and Whiteside.

The Senate resumed, as in Committee of the Whole, the bill entitled "An act to change the name of Lewis Grant to that of Lewis Grant Davidson;" and

Ordered, That it pass to a third reading.

The Senate resumed, as in Committee of the

Whole, the bill making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli; and, on the question, Shall the bill be engrossed, and read the third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana," together with the amendments reported thereunto by the select committee; and, having agreed thereto, on motion, by Mr. CLAY, it was agreed that the further consideration thereof be postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I transmit to Congress copies of a letter from the Secretary of the Treasury, accompanied by copies of the "laws, treaties, and other documents, relative to the public lands," as collected and arranged pursuant to the act passed April 27, 1810.

JAMES MADISON.

JANUARY 30, 1811.

The Message and letter therein referred to were read, and ordered to lie for consideration.

#### TERRITORY OF ORLEANS.

The Senate took into consideration the amendment proposed yesterday, by Mr. DANA, to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes;" and, on motion, by Mr. CLAY, it was agreed to divide the question; and, on the question to agree to the first division of the amendment, to wit:

*Provided*, That this act shall not be understood to admit such State into the Union, as aforesaid, unless each of the States shall consent to the same.

It was determined in the negative,—yeas 10, nays 18, as follows:

YEAS—Messrs. Bradley, Champlin, Dana, German, Gilman, Goodrich, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Campbell, Clay, Condit, Franklin, Gaillard, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

On the question to agree to the second division of the amendment, to wit:

*Provided*, That this act shall not be understood to admit such State into the Union as aforesaid, unless there shall be a constitutional amendment empowering the Congress to admit into the Union new States formed beyond the boundaries of the United States, as known and understood at the time of establishing the Constitution for the United States:

It was determined in the negative—yeas 8, nays 17, as follows:

YEAS—Messrs. Champlin, Dana, German, Gilman, Goodrich, Lloyd, Pickering, and Reed.

NAYS—Messrs. Campbell, Clay, Condit, Franklin,

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Gaillard, Gregg, Lambert, Leib, Mathewson, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

On motion, by Mr. BRADLEY, to postpone the further consideration of the bill to the second Monday in February next, it was determined in the negative.

On the question, Shall the bill be read a third time as amended? it was determined in the affirmative—yeas 17, nays 10, as follows:

YEAS—Messrs. Brent, Clay, Condit, Franklin, Gaillard, Gregg, Lambert, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bradley, Champlin, Dana, German, Gilman, Goodrich, Horsey, Lloyd, Pickering, and Reed.

THURSDAY, January 31.

Mr. CUTTS, from the committee, reported the amendments to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," correctly engrossed, and the bill was read the third time as amended; and the blanks were filled.

On motion, by Mr. PICKERING, it was agreed that the question on the final passage of the bill be taken by yeas and nays.

On motion, by Mr. BAYARD, to postpone the further consideration of the bill to the first Monday in December next, it was determined in the negative—yeas 10, nays 20, as follows:

YEAS—Messrs. Bayard, Bradley, Champlin, Dana, German, Gilman, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Anderson, Brent, Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, Gregg, Lambert, Leib, Mathewson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

On motion, by Mr. BRENT, it was agreed that the further consideration thereof be postponed, and be made the order of the day for Monday next.

Mr. CUTTS, from the committee, also reported the bill making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli, correctly engrossed, and the bill was read the third time, and passed.

The bill, entitled "An act to change the name of Lewis Grant, to that of Lewis Grant Davidson," was read the third time, and passed.

Mr. WORTHINGTON, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1811," reported it without amendment.

Mr. ANDERSON, from the committee appointed the 22d instant to consider the subject, reported a bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation; which was read, and passed to the second reading.

On motion, by Mr. WORTHINGTON, Resolved, That the Message of the President of the United States of the 30th instant, transmitting to Congress copies of the "laws, treaties, and other documents, relative to the public lands," be referred to a select committee, to consider and report thereon by bill or otherwise.

Ordered, That Messrs. WORTHINGTON, GREGG, and FRANKLIN, be the committee.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and eleven," reported it without amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning the Bank of Alexandria," in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the Corps of Engineers, together with the amendments reported thereto by the select committee; and, after progress, on motion, by Mr. SMITH, of Maryland, it was agreed that the further consideration thereof be postponed, and be made the order of the day for to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I lay before Congress a letter from the Chargé d'Affaires of the United States at Paris to the Secretary of State, and another from the same to the French Minister of Foreign Relations; also, two letters from the agent of the American Consul at Bordeaux to the Secretary of State.

JAMES MADISON.

JANUARY 31, 1811.

The Message and communications were read, and ordered to be printed for the use of the Senate.

The Senate resumed the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and eleven."

Ordered, That it pass to the third reading.

BANK OF THE UNITED STATES.

Mr. LEIB presented a memorial signed by a great number of the citizens of Philadelphia, praying a renewal of the charter of the Bank of the United States, for reasons therein stated, and that they may be heard by counsel on the subject; and the memorial was read, and referred to the committee appointed the 18th of December, on the petition of the President and Directors of the Bank of the United States on the same subject.

The memorial is as follows:

*To the Senate and House of Representatives in Congress of the United States, the memorial of the subscribers, citizens of Philadelphia, respectfully sheweth:*

That it is with increasing solicitude, and the deep-

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est concern, that your memorialists reiterate their petition to Congress for a renewal of the charter of the Bank of the United States. With the extreme of anxiety have they awaited the decision of this most important question, and with real distress do they witness the ascendancy of sentiments opposed to the continuance of the bank. Before a final determination shall, however, exclude all hope, they deem it their indispensable duty to lay before you a view of the distress which has already commenced, and of the wide spreading ruin which has been but faintly anticipated, but the certainty of which is now plain to every eye, and to accompany this view with their renewed and urgent entreaties, that this overwhelming mischief may yet be staid.

Your memorialists experience within themselves, and learn with calamitous certainty from abroad, that, from the uncertainty and suspense of the public mind, and an apprehension of the evils which must flow from a dissolution of the bank, confidence is visibly and substantially impaired, and credit almost suspended. From a neighboring and sister city, the most distressing intelligence assures them, that, as against the evils of this absence of confidence and suspension of credit, even extraordinary resources afford no security.

It has become too plain to admit of doubt, with the most incredulous, that confidence and credit are intimately and essentially connected with the continuance of the Bank of the United States, and that, if they are prostrated by the dissolution of that institution, the country must experience, to its lasting reproach, and, perhaps, its incurable injury, a general disregard of pecuniary engagements. Your memorialists, therefore, consider it as a fact no longer doubtful, or disputable, that, if the bank be dissolved at the expiration of its present charter, and, in truth, unless the public confidence be speedily restored, universal distress and incalculable loss must and will prevail.

Your memorialists do not conceive that they are pleading, particularly, the cause of the Bank of the United States, nor that of a few, or even many individuals, by commercial relation connected with the bank. They do not conceive that it is, merely, the cause of a few commercial towns and cities, or of a scanty portion of our population, but, that it is a cause and a question with which are connected, and in which are involved, interests of the highest import, extending through the whole community. The direct effect of an event impairing confidence and credit, unquestionably is, upon the merchant and trader; they, and their immediate connexions, are the first to suffer; but the evil must pervade the country. They, therefore, feel themselves justified, on such an occasion, and at such a crisis, in the most earnest and urgent terms again to address you.

From the pressing and peculiar exigencies of the time, brought about by the fear of a dissolution of the bank, and from a perfect persuasion of the near approach of all the evils which have been anticipated, your memorialists have deemed themselves bound to make this appeal to your wisdom, and to present it by a deputation of their fellow-citizens. This deputation, intimately acquainted with the situation, sentiments, and feelings of your memorialists, they respectfully request may be heard by counsel, on this momentous subject. Finally, it is the earnest and pressing prayer of your memorialists, that effectual means may be immediately adopted to restore public confidence, by a

renewal of the charter of the Bank of the United States, for a term which shall assure its duration; or, if that be not granted, that the public suffering may be alleviated by a continuance of the institution for a period which will permit it gradually to close its concerns.

JOSEPH NORTH,

*And eight hundred and sixty-seven others.*

FRIDAY, February 1.

The credentials of JAMES A. BAYARD, appointed a Senator by the Legislature of the State of Delaware, for the term of six years from the third day of March next; and of WILLIAM H. CRAWFORD, appointed a Senator by the Legislature of the State of Georgia, for the term of six years from the third day of March next, were severally read, and ordered to lie on file.

The bill, entitled "An act concerning the Bank of Alexandria," was read the second time, and referred to a select committee, to consider and report thereon; Messrs. BAYARD, BRENT, and BRADLEY, were appointed the committee.

The bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation was read the second time.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the Corps of Engineers, together with the amendments reported thereto by the select committee; and on the question to agree to the following amendment:

Section 5, line 4, after the word "buildings," insert, at such place as shall be designated by the President of the United States, and"—

It was determined in the negative—yeas 15, nays 17, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Brent, Champlin, Clay, Crawford, Cutts, Franklin, Gaillard, Horsey, Pope, Tait, Taylor, and Turner.

NAYS—Messrs. Campbell, Condit, Dana, German, Gilman, Goodrich, Gregg, Lambert, Leib, Lloyd, Mathewson, Pickering, Reed, Robinson, Smith of Maryland, Smith of New York, and Worthington.

On motion, by Mr. ANDERSON, it was agreed that the consideration of the bill be further postponed.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and eleven," was read the third time, and passed.

On motion, by Mr. BAYARD,

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate a copy of the census or latest enumeration of the people in the Territory of Orleans, which has been returned to the office of the Secretary of State; and, also, a copy of the latest militia return from the said Territory.

MONDAY, February 4.

The PRESIDENT communicated the report of the Secretary of the Treasury, prepared in obedience to the provisions of the act, entitled "An

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## Corps of Engineers, &amp;c.

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act to regulate and fix the compensation of clerks, and for other purposes;" which was read; and ordered to lie on the table.

The PRESIDENT also communicated the report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board subsequent to their report of the 3d of February, 1810, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the first day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report; and the report was read, and ordered to be printed for the use of the Senate.

On motion, by Mr. WORTHINGTON, Resolved, That a committee be appointed to examine and report what alterations or amendments are necessary to the act, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," with leave to report by bill or otherwise.

Ordered, That Messrs. WORTHINGTON, CUTTS, and FRANKLIN, be the committee.

On motion, by Mr. BRADLEY, Resolved, That a committee be appointed to inquire whether any and what alterations are necessary in relation to the act, entitled "An act fixing the compensation of public Ministers and of Consuls residing on the coast of Barbary, and for other purposes."

Ordered, That Messrs. BRADLEY, BRENT, and BAYARD, be the committee.

The Senate resumed the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and eleven;" and

Ordered, That it pass to a third reading.

Mr. GREGG presented the memorial of the clergy, resident in the city of Philadelphia, praying the ninth section of the act, entitled "An act regulating the Post Office Establishment," passed the 25th of April, 1810, may be so amended as to prohibit the delivery of letters on the first day of the week, commonly called the Lord's day, for reasons therein stated; and the memorial was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. GREGG, BAYARD, and BRADLEY, were appointed the committee.

Mr. CAMPBELL presented the petition of Moses Byxbe, praying the privilege of entering a part of the tract of the two miles square situated at the Lower Rapids of Sandusky river, at the common and ordinary price of public lands, with the usual conditions of such entries, (and that it be exempted from sale at public auction,) for the purpose of erecting a mill thereon for the convenience of the settlement, as is stated at large in the petition.

Mr. CAMPBELL also presented the memorial of the Western Missionary Society on the same subject, and the petition and memorial were severally read, and referred to a select committee,

to consider and report thereon by bill or otherwise; and Messrs. CAMPBELL, ROBINSON, and FRANKLIN, were appointed the committee.

The bill, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," was read the second time. On the question, Shall this bill be read a third time? it was determined in the negative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of December 20, 1810. JAMES MADISON.

FEBRUARY 4, 1811.

The Message and report were read, and ordered to be printed for the use of the Senate.

The PRESIDENT also communicated a report of the Secretary of the Treasury, in pursuance of the resolution of the Senate of the 20th of December, 1810, respecting the survey of the coast of the Territory of Orleans, together with sundry documents relative thereto; and the report was read.

Ordered, That the report and documents be printed for the use of the Senate.

Mr. WORTHINGTON, from the committee to whom was referred the Message of the President of the United States of the 30th of January on the subject, reported a bill making a further distribution of such laws of the United States as respect the public lands.

Mr. BAYARD, from the committee appointed on the subject, reported the bill, entitled "An act concerning the Bank of Alexandria," without amendment.

Mr. SMITH, of New York, presented the memorial of the Columbia Insurance Company of the city of New York, praying a renewal of the charter of the Bank of the United States, for reasons therein stated. And the memorial was read, and referred to the committee on the petition of the President and Directors of the Bank of the United States, on the same subject.

The Senate resumed the bill making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress; and

Mr. WORTHINGTON proposed an amendment thereto; which was read, and the consideration of the bill postponed until to-morrow.

On motion by Mr. FRANKLIN, one of the majority, it was agreed to reconsider the vote passed on the bill, entitled "An act incorporating the Protestant Episcopal Church of the town of Alexandria, in the District of Columbia;" and, on his motion, the bill was referred to a select committee; and Messrs. FRANKLIN, TAYLOR, and PICKERING, were appointed the committee further to consider and report thereon.

## CORPS OF ENGINEERS, &amp;c.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the Corps of Engineers, together with the amendments reported thereto by the select committee.

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On motion, by Mr. GREGG, to amend the amendment reported by the select committee, which report goes to strike out the sixth section, and to retain the said sixth section amended, as follows:

"That the President of the United States be, and he is hereby, authorized to remove the Military Academy from West Point, and to establish the same at Carlisle, in the State of Pennsylvania."

It was determined in the negative—yeas 16, nays 17, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Campbell, Champlin, Clay, Franklin, Gaillard, Gregg, Lloyd, Pope, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bradley, Condit, Crawford, Cutts, Dana, German, Gilman, Goodrich, Horsey, Lambert, Leib, Mathewson, Pickering, Reed, Robinson, Smith of Maryland, and Smith of New York.

And on the question to agree to the report of the select committee which goes to strike out the sixth section of the original bill, and to substitute the amendment reported, amended as follows:

"SEC. 6. And be it further enacted, That the 27th section of the act, entitled 'An act fixing the Military Peace Establishment,' passed the 16th day of March, one thousand eight hundred and two, and that so much of the 26th section of the said act, as confines the selection of the commander of the Corps of Engineers to the said corps, be, and the same are hereby repealed:"

It was determined in the affirmative—yeas 19, nays 14, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Brent, Campbell, Champlin, Clay, Crawford, Franklin, Gaillard, Gregg, Horsey, Lloyd, Pope, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Condit, Cutts, Dana, German, Gilman, Goodrich, Lambert, Leib, Mathewson, Pickering, Reed, Robinson, Smith of Maryland, and Smith of New York.

On motion, by Mr. SMITH, of Maryland, to strike out of the amendment last agreed to, from the word "enacted," in the first line, to the word "and," in the second instance, inclusive; it was determined in the negative—yeas 15, nays 18, as follows:

YEAS—Messrs. Condit, Cutts, Dana, German, Gilman, Goodrich, Lambert, Leib, Lloyd, Mathewson, Pickering, Reed, Robinson, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bayard, Brent, Campbell, Champlin, Clay, Crawford, Franklin, Gaillard, Gregg, Horsey, Pope, Tait, Taylor, Turner, Whiteside, and Worthington.

And the PRESIDENT reported the bill to the House as amended.

On motion, by Mr. BRADLEY, further to amend the original bill, section 5, line 4, by inserting, after the word "buildings," "at such place as shall be designated by the President of the United States, and"—it was determined in the affirmative—yeas 17, nays 15, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Brent, Champlin, Clay, Crawford, Cutts, Franklin, Gaillard, Horsey, Pope, Smith of New York, Tait, Taylor, Turner, and Worthington.

NAYS—Messrs. Campbell, Condit, Dana, German, Gilman, Goodrich, Gregg, Lambert, Leib, Lloyd, Mathewson, Pickering, Reed, Robinson, and Smith of Maryland.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

### BANK OF THE UNITED STATES.

Mr. LEIB presented the petition of a number of the citizens of Pittsburg, praying that the charter of the Bank of the United States may not be renewed, for reasons therein stated; and the petition was read, and referred to the committee appointed the 18th of December on the petition of the President and Directors of the Bank of the United States on the same subject.

The memorial is as follows:

*The memorial of the inhabitants of Pittsburg, Pennsylvania, against the renewal of the Charter of the United States' Bank, to the Senate and House of Representatives in Congress of the United States, respectfully sheweth.*

That your memorialists are "the People of the United States," from whom emanates all the power which you possess; that we have appointed you to guard, not to alienate our rights; that our Constitution never authorized Congress to establish a bank, under the control of individuals, for their own benefit, or to alienate the power of the purse more than the power of the sword. The act of February, 1791, chartering the bank, might, with equal justice and safety, have given to a corporation the power of the Army, with its appointments.

We feel deeply humbled, that, under the full blaze of Revolutionary light, one-half of the delegated power of the nation was given to a company, independent of our suffrages; but we rejoice that its charter will be terminated with your present session, and that it cannot be revived, provided the Congress shall be, as it professes, attached to the eternal principles of our Revolution, and to the clear dictates of our Constitution.

After the Bank of the United States had enjoyed twenty years of prosperity, had divided, in that term, four millions over six per cent., and had held in bondage thousands of our citizens, who dared not to act according to their consciences, from fear of offending the British stockholders and Federal directors, we had hoped that they would have quietly closed their concerns, and waited for another turn of fortune, till other classes of citizens of, at least, equal merit, had each shared their four millions; but we have seen, with indignation, a studied delay in the collections of that bank, indicating a determination to gain a renewal under stress of weather; a studied pressure on individuals and on State banks, in order to gain auxiliaries; and a studied memorial, containing, in smooth language, the most daring insults on the dignity and independence of a free people.

The memorial makes no direct claim of right to renewal, but it recounts many works of righteousness, which we beg leave to examine. It opens a modest proposal for the surrender of our independence, by declaring that the bank had continued business for public good, and under an impression that the general interest would require a renewal of the charter! It next compliments your honors on a degree of superior in-

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formation, which the stockholders are not in the habit of attributing. It then craves for the bank much of the credit really due to the actual labor and skill of your memorialists. While we have been traversing the ocean, or improving the earth, or advancing the arts, they have been dividing more than eight per cent. for all facilities, and, after this dividend, will have, on winding up, a balance in their favor, over the amount of capital, of \$4,711,236.

Though the United States' Bank has derived its breath and daily support from the bounty and long-suffering of the Congress, yet the memorial opens an unexpected score of debits, against the Government and People, which nothing short of renewal can discharge; and if the debits be correct, the new score for twenty years will be far beyond our ability. The bank has accommodated individuals, State banks, the commercial, manufacturing, and agricultural interests, and the National Treasury. It has removed specie to places where it was wanted, and has divided only eight and one fourth per cent. for all these sacrifices to public good! It has furnished places of deposit for millions of the public money, and has suffered the inconvenience of lending, on this deposit, for their own benefit. It has patriotically lent to Government its paper, which drew no interest, and received in exchange Government paper, drawing an interest. It has even suffered the Government to receive its paper for all bonds and dues. "It has, for the accommodation of the Government, established branches at places disadvantageous to its business, and from which no profit was expected to be derived."

Permit your memorialists to pause, and, by a view of the capital and loans of the branches of the United States' Bank, to estimate the value of this last claim on the Government.

	<i>Capital.</i>	<i>Loans.</i>
Boston - - - -	\$700,000	\$998,859
New York - - - -	1,800,000	4,175,847
Baltimore - - - -	600,000	1,349,550
Washington - - - -	200,000	485,285
Norfolk - - - -	600,000	880,170
Charleston - - - -	600,000	1,409,916
Savannah - - - -	500,000	1,054,113
New Orleans - - - -	300,000	611,516
	<hr/> 5,300,000	<hr/> 10,965,256

Nearly eleven millions lent on a capital of five millions three hundred thousand! A serious disappointment to men who expected no profit. Republics are said to be ungrateful. We are certainly so on the present occasion.

The memorial next proceeds to associate the bank with the Government, claiming to be a necessary and indivisible part of it, showing the insufficiency of State banks to answer the dignified purposes of their institution; and, after repeating, for the tenth time, the awful calamities awaiting their dissolution, they commend the hard case of moneyed aristocracies and of rich widows and orphans, interested in their stock, to the wisdom and justice of the Legislature. They again hold up the awful terrors of "a general derangement of credit," and pray for a renewal of their charter.

Now, may it please the Congress, this bank memorial is for a grant, worth, to the stockholders, six millions, and to federalism and British influence sixty millions; and if the memorial contained the truth,

there could have been no occasion of presenting it; but you, in your wisdom and superior intelligence, would have humbly petitioned David Lenox, president, and the directors and stockholders of the United States' Bank, to please to accept a renewal of their charter for eternity, or such shorter term as their honors should appoint.

But that memorial does not contain the whole truth. All its claims for services are more than balanced by enormous profits. Its threats of ruin to our establishments, in case of winding up, are balanced by the consideration, that, in their collections of fifteen millions, the stockholders will consult their own interest; they will not collect beyond the ability of their debtors; they will prefer the paper of State banks to private notes; and they will not press the State banks, so as to prevent their aiding the debtors of the United States' Bank. Whenever this bank shall withdraw from circulating medium its five millions in bills, it must pay for those five millions in specie, or the bills of State banks, in either of which cases the circulating medium will be restored. Whenever the deposits of more than four millions shall be withdrawn from its vaults, they will be either thrown into circulation, or placed in other banks. As to their being drawn from the country, let it be recollected that foreigners do not place their funds here, to remain inactive, merely because the United States' Bank is a safe place of deposit. But a portion of the deposit is by debtors of the bank, who will easily adopt a mode of transferring them in the ledger. As to the withdrawing of seven millions by foreigners, we cannot flatter ourselves with the prospect; but, if that should be the case, the Government can supply its place with paper, which will answer all the purposes of specie for all business, within our own country. We regard the repeated alarms in the memorial as not only groundless, but as a kind of threatening, ill suited to your dignity and our independence.

The bank memorial is a public declaration that the Government and People of the United States are held in duress by the memorialists, and that the continuance of our independence rests on their willingness to continue their bank operations. It contains an insulting history of favors to us, greater than their royal master ever urged upon the colonies. It declares that, in the management of the power of the purse, for twenty years, it has done everything for us, and has rendered itself necessary to our future existence. Its silent language is, "though we fail to conquer you by the sword, we hold you suspended by the purse strings. We demand your gratitude for such use of our funds as we have condescended to permit you to pay for; and now, if the power is to be withdrawn from us, all your establishments of commerce, finance, agriculture, and the arts, shall fall with us."

This language is not from a band of patriots, who undertook to aid the nation, in the first struggles of self-government, but of men, who, by subtlety and intercession, obtained a charter, and who have become masters of the head-waters of corruption, through the ill-placed bounty of the first Congress. Their delay to close their affairs, according to law, was not for public good, but in preparation for a sudden onset upon a short session of your honorable body. Hence their well-timed subscriptions to some Republican presses. Hence the silence of Federal presses, lest discussion should awake, in your constituents, the spirit of 1776. Hence the artificial depression of stock, not in market,



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and the petitions from interested companies and individuals crowding upon you. Hence the thronging of your avenues, and the artful sounding of every Senator and member. Hence the intimations, that a million and quarter should be placed in your Treasury, as a consideration for the ruin of your constituents; and hence the shameless assertion, that our President, who gained his elevation by his able opposition to the charter of the bank, and other ruinous measures, is now in favor of renewal.

The bank memorial, with its accompaniments, is an alarming commentary on the original charter. The actual depreciation of our silver and gold, by the United States' Bank, is not to be compared with the attempt to depreciate the sterling virtue and republican integrity of our people.

HENRY PHILLIPS,  
JOSEPH MCCLURG,  
*And seventy-eight others.*

TUESDAY, February 5.

The bill making a further distribution of such laws of the United States as respect the public lands was read the second time.

Mr. CUTTS, from the committee, reported the bill making further provision for the Corps of Engineers correctly engrossed; and the bill was taken up; and,

On motion, by Mr. ANDERSON, recommitted to a select committee, to consist of five members, further to consider and report thereon; and Messrs. ANDERSON, CRAWFORD, GERMAN, SMITH, of Maryland, and BRENT, were appointed the committee.

Mr. ANDERSON, from the committee appointed the 24th January to consider the subject, reported a bill authorizing the sale and grant of a certain quantity of public land to the Havre de Grace Bridge Company; and the bill was read, and passed to a second reading.

The Senate resumed the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes;" and, on motion, by Mr. BAYARD, it was agreed that the consideration thereof be further postponed and made the order of the day for to-morrow.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana; and, having agreed to the amendments reported by the select committee, the President reported the bill to the House accordingly. On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation. On the question, Shall this bill be engrossed and read a third time? the votes being equal, the PRESIDENT determined the question in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes."

On motion, by Mr. SMITH, of Maryland, it was agreed that the consideration thereof be further postponed, and be made the order of the day for to-morrow.

The Senate resumed the bill, entitled "An act concerning the Bank of Alexandria."

*Ordered*, That it pass to a third reading.

The bill, entitled "An act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and eleven, was read the third time, and passed.

#### BANK OF THE UNITED STATES.

Mr. CRAWFORD reported a bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791; which passed to a second reading.

[The first section continues the act of 1791, until the 4th of March, 1831, subject to the following conditions:

Sec. 2. The bank to pay into the Treasury, on or before the 4th October, ——— dollars.

Sec. 4. Bank to pay the United States three per cent. on all sums above one million, which shall be deposited by the United States for more than one year.

Sec. 5. Capital may be increased by the United States 12,500 shares, not exceeding 2,500 in each year.

Sec. 6. United States to have the right to appoint directors in proportion to the amount of stock they may hold.

Sec. 7. Present President and Directors may serve until the 1st Monday in January, 1812.

Sec. 8. Citizens, *bona fide* stockholders, alone to vote for directors to attend meetings.

Sec. 9. Bank permitted to hold property under certain limitations.

Sec. 10. Not to issue notes to greater amount than the amount of capital stock paid in.

Sec. 11. The officer at the head of the Treasury Department shall have the right to inspect books, &c.

Sec. 12. Act to punish frauds on the bank continued in force.

Sec. 13. This act to be void if terms not accepted within three months.

Sec. 14. So much of act of 1791 repealed as pledges Congress to grant a charter to no other bank during the continuance of this corporation.]

Mr. CRAWFORD also communicated a letter from the Chairman of the Committee to the Secretary of the Treasury, together with the answer of the Secretary thereto on the subject of the Bank of the United States, as follows:

SENATE CHAMBER, Jan. 29, 1811.

SIR: The committee of the Senate to whom has been referred the memorial of the President and Directors of the Bank of the United States, praying for a renewal of their charter, have directed me to request you to state to the committee, whether, in your opinion, the renewal of the said charter will not greatly facilitate the collection of the revenue, and promote the public welfare. In complying with this request, it

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is expected that you will furnish the committee with the facts and reasoning upon which your opinion has been formed, together with such other information upon this subject as may be in your possession.

I am, sir, respectfully, your most obedient and very humble servant,

WM. H. CRAWFORD.

To the Hon. ALBERT GALLATIN.

TREASURY DEPARTMENT,

*January 30, 1811.*

SIR: Having already, in a report to the Senate of 2d March, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee as stated in your letter of yesterday.

The banking system is now firmly established, and, in its ramifications, extends to every part of the United States. Under that system, the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe-keeping and transmission of public moneys. That the punctuality of payments is principally due to banks, is a fact generally acknowledged. It is, to a certain degree, enforced by the refusal of credit at the custom-house, so long as a former revenue bond actually due remains unpaid. But I think, nevertheless, that, in order to insure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish altogether the credit now given on the payment of duties; a measure which would affect the commercial capital, and fall heavily on the consumers. That the public moneys are safer by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted for the purpose of making payments in other places than those of collection, cannot, with any convenience, be effected on a large scale in an extensive country, except through the medium of banks, or of persons acting as bankers.

The question, therefore, is, whether a bank incorporated by the United States, or a number of banks incorporated by the several States, be most convenient for those purposes.

State banks may be used, and must, in case of a non-renewal of the charter, be used by the Treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted through their medium, with less convenience, and, in some respects, with perhaps less safety than at present, but without any insuperable difficulty. The difference with respect to safety results from the organization of the Bank of the United States, by which it is responsible for the money deposited in any of its branches, while each of the State banks which may be employed will be responsible only for the sums in its own hands. Thus the Bank of the United States is now answerable for the moneys collected at New Orleans, and deposited there in its branch, a security which will be lost under a different arrangement. Nor will the United States have any other control over the manner in which the business of the banks may be conducted, than what may result from the power of withdrawing the public deposits; and they will lose that which a charter or a dependence on the General Government for a charter now gives over the Bank of the United States. The facility of obtaining such accommodations as may at times be

wanted, will, for the same reason, be lessened, and the national power will to that extent be impaired. It may be added that, even for the ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State, and that loans to the United States, are, by many of the charters, forbidden, without a special permission from the State.

As it is not perceived, on the other hand, that a single advantage will accrue to the public from the change, no reason presents itself, on the grounds of expediency, why an untried system should be substituted to one under which the Treasury business has so long been conducted with perfect security to the United States, and great convenience not only to the officers but also to all those who have had payments of a public nature to make or to receive.

It does not seem necessary to advert to the particular objections made against the present charter, as these may easily be obviated by proper alterations. What has been called a National Bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of the 2d March, 1809; and any other modifications, which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country.

If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and, probably, with no inconsiderable public injury. It is impossible that an institution which circulates thirteen millions of dollars, and to whom the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial, banking, and national credit. It is not intended to overrate the extent of an evil which there are no certain data to appreciate. And, without expatiating on the fatal and unavoidable effects on its dividends, without dwelling on the inconvenience of repaying, at this time, to Europe a capital of seven millions, and without adverting to other possible dangers of a more general nature, it appears sufficient to state that the same body of men who owe fourteen millions of dollars to the bank, owe also ten or twelve to the United States, on which the receipts into the Treasury for this year altogether depend; and that, exclusively of absolute failures, it is improbable that both debts can be punctually paid at the same time. Nor must it be forgotten that the approaching non-importation will considerably lessen the efficiency of the provision by which subsequent credits are refused to importers who have not discharged former revenue bonds. Upon the whole, a perfect conviction is felt, that, in the critical situation of the country, new evils ought not to be superadded, and a perilous experiment be attempted, unless required by an imperative necessity.

In these hasty remarks, I have not adverted to the question of constitutionality, which is not a subject of

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discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state, that the bank charter, having for a number of years been acted upon or acquiesced in as if Constitutional by all the constituted authorities of the nation, and thinking myself the use of banks to be at present necessary for the exercise of the legitimate powers of the General Government, the continuation of the Bank of the United States has not, in the view which I have been able to take of the subject, appeared to me to be unconstitutional.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. WM. H. CRAWFORD, *Chairman*.

WEDNESDAY, February 6.

Mr. BRADLEY presented the petition of Charlotte Hazen, relict of the late Brigadier General Moses Hazen, praying a grant of land may be made to her, as a Canadian refugee, or that a small addition, in lieu thereof, may be added to her present pension from Congress, for reasons stated at large in the petition; which was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. BRADLEY, FRANKLIN, and GERMAN, were appointed the committee.

Mr. B., also, presented the memorial of James Wilkinson, stating that he has made sundry advances of money in the course of his military service, for which, no provision having been made by law, he cannot obtain credit therefor at the proper accounting offices; and that he is improperly charged on the books of the War Department with disbursements made by him in the prosecution of certain orders from the Executive, and praying relief, for reasons therein mentioned; and the memorial was read, and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. BRADLEY, CAMPBELL, and GREGG, were appointed the committee.

Mr. ANDERSON, from the committee to whom was referred "the bill making further provision for the Corps of Engineers," reported it with amendments; which were read.

A message from the House of Representatives informed the Senate that they have passed the bill, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli," with an amendment, in which they request the concurrence of the Senate. The House have passed a bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory; also, a bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory;" in which bills they request the concurrence of the Senate.

The bills last brought up for concurrence were read, and passed to the second reading.

The amendment of the House of Representatives to the bill, entitled "An act making com-

pensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli," was read.

Mr. CRAWFORD, from the committee appointed on the subject, reported a bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes. And the bill was read and passed to the second reading.

The bill entitled, "An act concerning the Bank of Alexandria," was read the third time and passed.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and eleven;" and having agreed to the amendment, on motion, by Mr. CAMPBELL, it was agreed that the further consideration of the bill be postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the first instant.

JAMES MADISON.

FEBRUARY 5, 1811.

The Message and report were read, and ordered to be printed for the use of the Senate.

The Senate resumed as in Committee of the Whole, the bill making further provisions for the disposal of the sections of land, heretofore reserved for the future disposition of Congress, and for other purposes;" and after progress, it was agreed that the consideration thereof be further postponed until to-morrow.

The bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of public land in the Territories of Orleans and Louisiana," was read the third time as amended.

*Resolved*, That this bill pass with amendments.

THURSDAY, February 7.

The bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the twenty-fifth day of February, one thousand seven hundred and ninety-one, was read the second time, and on motion, by Mr. CRAWFORD, it was agreed that the further consideration thereof be made the order of the day for Monday next.

The bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes, was read the second time.

Mr. ANDERSON gave notice that to-morrow he should ask leave to bring in a bill to extend the right of suffrage in the Indiana Territory, and for other purposes.

The bill authorizing the sale and grant of a certain quantity of public land to Havre de Grace Bridge Company, was read the second time.

Mr. CAMPBELL, from the committee to whom was referred the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the Re-

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gister and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearlriver," reported it with amendments; which were read.

The bill, entitled "An act for the relief of Richard Terwin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GREGG, FRANKLIN, and BRADLEY, were appointed the committee.

The bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. WORTHINGTON, CAMPBELL, and FRANKLIN, were appointed the committee.

The Senate resumed the third reading of the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes."

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 22, nays 10, as follows:

YEAS—Messrs. Anderson, Brent, Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Champlin, Dana, German, Gilman, Goodrich, Horsey, Lloyd, Pickering, and Reed.

So it was *Resolved*, That this bill pass with amendments.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and eleven."

On motion, it was agreed that the consideration thereof be postponed until to-morrow.

The Senate resumed the consideration of the amendment of the House of Representatives to the bill, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli."

On motion, by Mr. BRADLEY,

*Resolved*, That they disagree thereto.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of the 21st January last. JAMES MADISON.

FEBRUARY 7, 1811.

The Message and report were read, and ordered to be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the bill making a further distribution of such laws of the United States as respect the public lands. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act incorporating the Protestant Episcopal Church, in the town of Alexandria, in the District of Columbia," reported it without amendment.

*Ordered*, That it pass to a third reading.

On motion, by Mr. FRANKLIN,

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess relative to the accounts of George W. Erving, for his services and compensation for attending the Board of Commissioners, established under the seventh article of the British treaty.

FRIDAY, February 8.

Mr. ANDERSON asked and obtained leave to bring in a bill to extend the right of suffrage in the Indiana Territory, and for other purposes; which was read, and passed to the second reading.

Mr. ANDERSON, from the committee appointed on the subject, reported a bill for the relief of David Porter, a Commander in the Navy of the United States; which was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio: and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl River," together with the amendments reported thereto by the select committee; and having agreed thereto, the President reported the bill to the House accordingly.

On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

Mr. CUTTS reported, from the committee, the bill making a further distribution of such laws of the United States as respect the public lands, correctly engrossed; and the bill was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the Corps of Engineers, together with the amendments reported thereto by the select committee; and having agreed to the amendments, the President reported the bill to the House accordingly.

On motion, by Mr. LEIB, to strike out, in section five, line two, after the word "buildings," the following words: "at such place as shall be designated by the President of the United States," for the purpose of inserting, in lieu thereof, the words "in Carlisle, in the State of Pennsylvania:" a division of the question was called for: and the question was taken on striking out, and determined in the negative—yeas 14, nays 17, as follows:

YEAS—Messrs. Condit, German, Gilman, Goodrich, Gregg, Lambert, Leib, Lloyd, Mathewson, Pickering, Reed, Robinson, Smith of Maryland, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Bradley, Brent, Champlin, Clay, Crawford, Cutts, Franklin, Gaillard,

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Giles, Horsey, Pope, Tait, Taylor, Turner, and Worthington.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes.

On motion, by Mr. BRADLEY, it was agreed that the consideration thereof be postponed and made the order of the day for Monday next.

The bill, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," was read the third time, and passed.

On motion, by Mr. BRADLEY,

*Resolved*, That a committee be appointed to inquire into the expediency of establishing an additional collection district on the northern boundaries of the United States, with leave to report by bill or otherwise.

*Ordered*, That Messrs. BRADLEY, GERMAN, and CRAWFORD, be the committee.

The Senate resumed, as in Committee of the Whole, the bill authorizing the sale and grant of a certain quantity of public land to the Havre de Grace Bridge Company. And on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia. And on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill declaring the laws now in force in the Territory of Orleans, to extend to and to have full force and effect to the river Perdido, pursuant to the treaty concluded at Paris on the 30th day of April, 1803, and for other purposes.

On motion, by Mr. GILES, it was recommended to the committee appointed the 8th of December on so much of the Message of the President of the United States as relates to that subject.

Mr. BRENT submitted the following motion:

*Resolved*, That a committee be appointed to bring in a bill making compensation to certain officers of the customs.

Mr. BRADLEY, from the committee appointed this day to consider the subject, reported the bill to establish the districts of Memphremagog, of Oswagatchie, and of the White Mountains; and the bill was read, and passed to the second reading.

Mr. CLAY presented the petition of Philip Hammond, on behalf of himself and of the heirs of John Prior, deceased, praying that he and the said heirs may be compensated for certain services rendered by him and the said John Prior to the United States, as mentioned in the petition; which was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. CLAY, CAMPBELL, and FRANKLIN, were appointed the committee.

11th CON. 3d Sess.—5

MONDAY, February 11.

Mr. GILES introduced a bill in addition to an act, entitled "An act to amend the judicial system of the United States," as follows:

"Be it enacted, &c., That during the term of the Supreme Court of the United States, commencing on the first Monday of February instant, the said court shall be holden by the Justices thereof, or any three of them: *Provided*, that in case only three Judges be present, the said court shall not have power to hear or determine any case, without the consent of the parties or their counsel, except those brought before the court from the Circuit Court of the District of Columbia."

The bill was twice read and referred to Messrs. BAYARD, GILES, and CLAY.

The bill for the relief of David Porter, a commander in the Navy of the United States, was read the second time.

The bill to extend the right of suffrage in the Indiana Territory, and for other purposes, was read the second time and referred to a select committee, to consider and report thereon; and Messrs. WORTHINGTON, ANDERSON, and GREGG, were appointed the committee.

The bill to establish the districts of Memphremagog, of Oswagatchie, and of the White Mountains, was read the second time.

The Senate resumed the third reading of the bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation.

On motion, by Mr. PICKERING, the bill was recommended to a select committee, further to consider and report thereon; and Messrs. PICKERING, ANDERSON, and TAIT, were appointed the committee.

The Senate resumed the bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes.

On motion, by Mr. CRAWFORD, it was recommended to a select committee, to consist of five members, further to consider and report thereon; and Messrs. CRAWFORD, FRANKLIN, GOODRICH, BRADLEY, and CONDIT, were appointed the committee.

The engrossed bill making further provision for the Corps of Engineers was read the third time as amended, and the blank filled. On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Campbell, Champlin, Clay, Crawford, Franklin, Gaillard, Giles, Gregg, Horsey, Pope, Smith of Maryland, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Condit, Dana, German, Gilman, Goodrich, Lambert, Leib, Pickering, Reed, and Robinson.

*Resolved*, That this bill pass, and that the title thereof be "An act making further provision for the Corps of Engineers."

Mr. BAYARD, from the committee to whom was referred the bill in addition to an act, entitled "An act to amend the judicial system of the United States," reported it with an amendment; which was read and agreed to as in Committee

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of the Whole, and the President reported the bill to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined, by unanimous consent, in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the election of sheriffs, in the Indiana Territory;" also, the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen;" in which bills they desire the concurrence of the Senate. They have also passed the bill, entitled "An act to incorporate the subscribers to the Farmers' Bank of Alexandria," with amendments, in which they ask the concurrence of the Senate; the bill, entitled "An act to incorporate the Bank of Potosi," with an amendment, in which they ask the concurrence of the Senate; the bill, entitled "An act to incorporate the Bank of Washington," with amendments, in which they ask the concurrence of the Senate; also, the bill, entitled "An act to incorporate the Bank of Georgetown," with amendments, in which they ask the concurrence of the Senate. The House of Representatives concur in all the amendments of the Senate to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," except the second, to which they do not agree.

The Senate proceeded to consider the amendment to the last mentioned bill disagreed to by the House of Representatives; and on motion, by Mr. BAYARD, the further consideration thereof was postponed until to-morrow.

The two last bills brought up for concurrence were read, and passed to the second reading.

Mr. CURTIS, from the committee, reported the bill in addition to an act, entitled "An act to amend the judicial system of the United States," correctly engrossed; and the bill was read the third time by unanimous consent.

On the question, Shall this bill pass? it was determined in the affirmative—yeas 23, nays 2, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Campbell, Champlin, Clay, Condit, Crawford, Dana, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Horsey, Leib, Lloyd, Pickering, Smith of New York, Taylor, Turner, and Whiteside.

NAYS—Messrs. Reed and Worthington.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act in addition to an act, entitled 'An act to amend the judicial system of the United States.'"

Mr. PICKERING, from the committee to whom was recommitted the bill to enable the Georgetown Bridge Company to levy money for the object of its incorporation, reported it amended.

Mr. CRAWFORD, from the committee to whom was recommitted the bill to authorize the payment of certain certificates, credits, and pensions,

and for other purposes, asked leave to report a new bill; which was read and passed to the second reading.

The PRESIDENT communicated a letter from the Governor of the State of Ohio, enclosing a resolution of that Legislature, approving the amendment to the Constitution of the United States respecting titles of nobility; which were read.

*Ordered*, That they be transmitted to the office of the Secretary for the Department of State.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of the 7th instant. JAMES MADISON.

FEBRUARY 11, 1811.

The Message and report were read and ordered to be printed for the use of the Senate.

#### BANK OF THE UNITED STATES.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, one thousand seven hundred and ninety-one.

Mr. ANDERSON said that having been a member of the committee who reported the bill before the Senate, and not feeling himself at liberty to oppose the introduction of the report, yet, thinking it might be advisable to try the principle before they proceeded to discuss the details, he should move to strike out the first section of the bill. He would barely observe that, was this not a question which was generally understood, on which not only every member of this House, but every citizen of the United States had made up his mind, he should feel himself bound to offer reasons in support of the motion; but, inasmuch as it was a question which every gentleman had doubtless decided in his own mind, he felt unwilling to take up any more of the attention of the Senate, especially so late in the session, when there was so much business of importance before them, which required to be acted on.

Mr. CRAWFORD said this was a way of disposing of business which struck him as somewhat astonishing. A bill was proposed to the Senate to continue in operation an institution of twenty years standing, the good effects of which had been universally experienced, whose influence on the public prosperity was admitted by all; and, without assigning any reason why it should not be continued, they were told that the public sentiment had decided the question, and every gentleman must have made up his mind. He appealed to the gentleman who made the motion, whether this was a fair and magnanimous mode of procedure. How was it possible for the friends of this bill to meet objections never made? To foresee the grounds on which gentlemen would have made up their minds? Surely, when a question of this magnitude was to be decided, it ought to be expected that some

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reasons should be offered why the bill should be rejected. Mr. C. said he hoped if the honorable gentleman from Tennessee chose to veil himself and argument from discussion, on the ground that he had made up his mind, that some gentleman would condescend to give reasons in favor of the motion.

Mr. SMITH, of Maryland, said there was certainly nothing novel in the course taken by the gentleman from Tennessee. The gentleman from Georgia could not be ignorant that some of the State Legislatures had taken the subject up. It, therefore, became the duty, with all respect to his friend from Georgia, of the introducer of the bill to give some reason to induce the Senate to give their votes for a renewal of the charter.

Mr. ANDERSON said that he had deemed it strictly proper and parliamentary to make the motion which he had offered to the House. He deemed it incumbent on those who meant to support this bill to assign the reasons why the section should not be struck out. To his mind, Mr. A. said, this system was infinitely more injurious than beneficial; it created a kind of fictitious wealth in the community; destroyed in a degree the firm principles of our political institutions; and, if we went on with it for twenty years more, we should be at least fifty years older, he would not say in corruption, but in the want of the strict political virtue which, if the bank had never have existed, we might have maintained. This opinion was a sufficient objection, without saying anything of the unconstitutionality of the thing, which to him had always been a paramount objection.

Mr. CRAWFORD said that the gentlemen from Tennessee and Maryland had misconceived what he had said. He had not complained that the motion was made; nothing like it. He knew that such a course was sometimes pursued. But it was the first time he ever knew such a motion to be made without a discussion of the details, without a detailed statement of the reasons for opposing such and such provisions. He must be permitted to state that such a course was not usual in this or any other body, as that a chairman should be called upon to state reasons which induced a committee to report any provision, when a motion was made which went to put an end to any discussion of the detail. Gentlemen assumed the affirmative side of the question; they were about to defeat the bill—ought they not to assign their reasons? What a situation am I placed in, said Mr. C. How is it possible I can foresee all the objections to the bill? And if perchance I should foresee them and defeat them, will not gentlemen say these are not the reasons which influenced their votes? It is like pursuing a will-o'-the-wisp; you can never arrive at the true object of pursuit. I should humbly hope, sir, that some gentleman, who wishes to put an end to this bill, would assign the reasons on which he determined to give his vote.

Mr. SMITH, of Maryland, said he had always thought it was the duty of a committee to in-

form the Senate of the reasons which induced them to report a bill. I was not on the committee, said he. There were but five on it; and consequently there are twenty-nine of us who cannot tell what induced that gentleman to report the bill which has produced this agitation among us, and which some of the States have declared hostile to the Constitution. I was so certain that the gentleman would give his view of the subject, that I did not come prepared to enter into the question. I did expect to hear something from that gentleman which I or some other gentleman would have thought it our duty to give an answer to.

Mr. CRAWFORD said that he should proceed, though reluctantly, to explain the reasons of the committee for reporting the bill, which is now under consideration. After the most minute examination of the Constitution, the majority of that committee were decidedly of opinion that the Congress of the United States were clearly invested with power to pass such a bill. The object of the Constitution was two-fold: 1st, the delegation of certain general powers, of a national nature, to the Government of the United States; and 2d, the limitation or restriction of the State sovereignties. Upon the most thorough examination of this instrument, I am induced to believe, that many of the various constructions given to it are the result of a belief that it is absolutely perfect. It has become so extremely fashionable to eulogize this Constitution, whether the object of the eulogist is the extension or contraction of the powers of the Government, that whenever its eulogium is pronounced, I feel an involuntary apprehension of mischief. Upon the faith of this imputed perfection, it has been declared to be inconsistent with the entire spirit and character of this instrument, to suppose that after it has given a general power it should afterwards delegate a specific power fairly comprehended within the general power. A rational analysis of the Constitution will refute in the most demonstrative manner this idea of its perfection. This analysis may excite unpleasant sensations; it may assail honest prejudices; for there can be no doubt that honest prejudices frequently exist, and are many times perfectly innocent. But when these prejudices tend to destroy even the object of their affection, it is essentially necessary that they should be eradicated. In the present case, if there be any who, under the conviction that the Constitution is perfect, are disposed to give it a construction that will render it wholly imbecile, the public welfare requires that the veil should be rent, and that its imperfection should be disclosed to public view. By this disclosure it will cease to be the object of adoration, but it will nevertheless be entitled to our warmest attachment.

The 8th section of the 1st article of the Constitution contains among others the following grant of powers, viz: to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures; to raise and support armies; to provide and maintain a navy; to

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regulate commerce with foreign nations, and among the several States, and with the Indian tribes; to establish post offices and post roads. This selection contains five grants of general power. Under the power to coin money it is conceived that Congress would have a right to provide for the punishment of counterfeiting the money after it was coined, and that this power is fairly incidental to, and comprehended in, the general power. The power to raise armies and provide and maintain a navy comprehends, beyond the possibility of doubt, the right to make rules for the government and regulation of the land and naval forces; and yet in these three cases, the Constitution, after making the grant of general power, delegates specifically the powers which are fairly comprehended within the general power. If this, however, should be denied, the construction which has been uniformly given to the remaining powers which have been selected, will establish the fact beyond the power of contradiction. Under the power to regulate commerce, Congress has exercised the power of erecting light-houses, as incidental to that power, and fairly comprehended within it. Under the power to establish post offices, and post roads, Congress has provided for the punishment of offences against the Post Office Department. If the Congress can exercise an incidental power not granted in one case, it can in all cases of a similar kind. But it is said, that the enumeration of certain powers excludes all other powers not enumerated. This is true so far as original substantive grants of power are concerned, but it is not true when applied to express grants of power, which are strictly incidental to some original and substantive grant of power. If it were true in relation to them, Congress could not pass a law to punish offences against the Post Office Establishment, because the Constitution has expressly given the power to punish offences against the current coin, and as it has given the power to punish offences committed against that grant of general power, and has withheld it in relation to the power to establish post offices and post roads. Congress cannot, according to this rule of construction, so warmly contended for, pass any law to provide for the punishment of such offences. The power to make rules for the regulation and government of the land and naval forces, I have shown to be strictly incidental to the power to raise armies, and provide and maintain navies; but, according to this rule of construction, all incidental powers are excluded except the few which are enumerated, which would exclude from all claim to constitutionality, nearly one half of your laws, and, what is still more to be deprecated, would render your Constitution equally imbecile with the old articles of confederation. When we come to examine the 4th article, the absurdity of this rule of construction, and also of the idea of perfection which has been attributed to the Constitution, will be equally manifest. This article appears to be of a miscellaneous character and very similar to the codicil of a will. The first article provides for

the organization of Congress; defines its powers; prescribes limitations upon the powers previously granted; and sets metes and bounds to the authority of the State Governments. The second article provides for the organization of the Executive Department, and defines its power and duty. The 3d article defines the tenure by which the persons in whom the judicial power may be vested shall hold their offices, and prescribes the extent of their power and jurisdiction. These three articles provide for the three great departments of Government called into existence by the Constitution, but some other provisions just then occur, which ought to have been included in one or the other of the preceding articles, and these provisions are incorporated and compose the 4th article. The 1st section of it declares, that "full faith and credit shall be given in each State, to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof." In the second section it declares, that a person, charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime. A similar provision is contained in the same section, relative to fugitives who are bound to labor, by the laws of any State. In the first case which has been selected, express authority has been given to Congress, to prescribe the manner in which the records, &c., should be proved, and also the effect thereof, but in the other two, no authority is given to Congress, and yet the bare inspection of the three cases will prove that the interference of Congress is less necessary in the first than in the two remaining cases. A record must always be proved by itself, because it is the highest evidence of which the case admits. The effect of a record ought to depend upon the laws of the State of which it is a record, and, therefore, the power to prescribe the effect of a record was wholly unnecessary, and has been so held by Congress—no law having been passed to prescribe the effect of a record. In the second case there seems to be some apparent reason for passing a law to ascertain the officer upon whom the demand is to be made; what evidence of the identity of the person demanded and of the guilt of the party charged must be produced before the obligation to deliver shall be complete. The same apparent reason exists for the passage of a law relative to fugitives from labor. According, however, to the rule of construction contended for, Congress cannot pass any law to carry the Constitution into effect, in the two last cases selected, because express power has been given in the first and is withheld in the two last. Congress has nevertheless passed laws to carry those provisions into effect, and this exercise of power has never been complained of by the people or the States.



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Mr. President, it is contended by those who are opposed to the passage of this bill, that Congress can exercise no power by implication, and yet it is admitted, nay, even asserted, that Congress would have power to pass all laws necessary to carry the Constitution into effect, whether it had given or withheld the power which is contained in the following paragraph of the 8th section of the 1st article: "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof." If this part of the Constitution really confers no power, it at least, according to this opinion, strips it of that attribute of perfection which has by these gentlemen been ascribed to it. But, sir, this is not the fact. It does confer power of the most substantial and salutary nature. Let us, sir, take a view of the Constitution upon the supposition that no power is vested in the Government by this clause, and see how the exclusion of power by implication can be reconciled to the most important acts of the Government. The Constitution has expressly given Congress power "to constitute tribunals inferior to the Supreme Court," but it has no where expressly given the power to constitute a supreme court. In the 3d article it is said, "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish." The discretion, which is here given to Congress, is confined to the inferior courts, which it may from time to time ordain and establish, and not to the Supreme Court. In the discussion which took place upon the bill to repeal the judicial system of the United States in the year 1802, this distinction is strongly insisted upon by the advocates for the repeal. The Supreme Court was said to be the creature of the Constitution, and, therefore, intangible, but that Congress, possessing a discretionary power to create or not to create inferior tribunals, had the same discretionary power to abolish them whenever it was expedient. But if even the discretionary power here vested does extend to the Supreme Court, yet the power of Congress to establish that court must rest upon implication, and upon implication alone. Under the authority to establish tribunals inferior to the Supreme Court, the power to establish a supreme court would, according to my ideas, be vested in Congress by implication. And, sir, it is only vested by implication. even if the declaration, that Congress shall have power to pass all laws necessary and proper to carry into effect the power vested in any department or officer of the Government should be held to be an operative grant. Under this grant, Congress can pass laws to carry into effect the powers vested in the judicial department. What are the powers vested in this department. That it shall exercise jurisdiction in all cases in law and equity arising under this Constitution, &c., in all cases affecting ambassadors, &c., but the power to create

the department and to carry into effect the powers given to or vested in that department, are very different things.

The power to create the Supreme Court cannot be expressly granted in the power to pass all laws necessary and proper to carry into effect the powers vested in that court, but must, as I have endeavored to prove, be derived from implication. Let me explain my understanding of a power which exists by implication, by an example which will be comprehended by all who hear me. In a devise, an estate is granted to A, after the death of B, and no express disposition is made of the estate during the life of A; in that case A is said to have an estate for life, by implication, in the property so devised. So when the Constitution gives the right to create tribunals inferior to the Supreme Court, the right to create the Supreme is vested in Congress by implication. Shall we after this be told that Congress cannot Constitutionally exercise any right by implication? By the exercise of a right derived only from implication, Congress has organized a Supreme Court, and then, as incidental to power, existing only by implication, it has passed laws to punish offences against the law by which the court has been created and organized. Sir, the right of the Government to accept of the District of Columbia, exists only by implication. The right of the Government to purchase or accept of places for the erection of forts, magazines, arsenals, and dockyards, exists only by implication, and yet no man in the nation, so far as my knowledge extends, has complained of the exercise of those implied powers, as an unconstitutional usurpation of power. The right to purchase or accept of places for the erection of light-houses, as well as the right to erect and support light-houses, must be derived by implication alone, if any such right exists. The clause in the Constitution which gives Congress the power "to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," certainly gives no express power to accept or purchase any of the places, destined for the uses therein specified. The only power expressly given in this clause is that of exercising exclusive legislation in such places; the right to accept or purchase must be derived by implication from this clause, or it must be shown to be comprehended in or incidental to some other power expressly delegated by the Constitution. I shall now attempt to show, that according to the construction which has been given to other parts of this Constitution, Congress has the right to incorporate a bank to enable it to manage the fiscal concerns of the nation. If this can be done, and if it can also be shown that the correctness of such construction has never excited

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murmur or complaint—that it has not even been questioned, I shall have accomplished everything which it will be incumbent on me to prove, to justify the passage of the bill upon your table. The power to lay and collect taxes, duties, imposts and excises, together with the power to pass all laws which may be necessary and proper for carrying into effect the foregoing powers, when tested by the same rule of construction which has been applied to other parts of the Constitution, fairly invests Congress with the power to create a bank. Under the power to regulate commerce, Congress exercises the right of building and supporting light-houses. What do we understand by regulating commerce? Where do you expect to find regulations of commerce? Will any man look for them anywhere else than in your treaties with foreign nations, and in your statutes regulating your custom-houses and custom-house officers? What are the reasons for vesting Congress with the right to regulate commerce with foreign nations, and among the several States? The commerce of a nation is a matter of the greatest importance in all civilized countries. It depends upon compacts with other nations, and whether they are beneficial or prejudicial depends not so much on the reciprocal interest of nations as upon their capacity to defend their rights and redress their wrongs. It was therefore highly important that the right to regulate commerce with foreign nations should be vested in the National Government. If the regulation of commerce among the several States had been left with the States, a multiplicity of conflicting regulations would have been the consequence. Endless collisions would have been created, and that harmony and good neighborhood, so essential between the members of a Federal Republic, would have been wholly unattainable. The best interest of the community, therefore, imperiously required, that this power should be delegated to Congress. Not so of light-houses. The interest of the States would have induced them to erect light-houses, where they were necessary, and when erected they would have been equally beneficial to their own vessels, the vessels of their sister States, and of foreign nations. The performance of this duty could have been most safely confided to the States. They were better informed of the situations in which they ought to be erected than Congress could possibly be, and could enforce the execution of such regulations as might be necessary to make them useful. How then has it happened that Congress has taken upon itself the right to erect light-houses, under their general power to regulate commerce? I have heard and seen in the public prints a great deal of unintelligible jargon about the incidentality of a law to the power delegated and intended to be executed by it, and of its relation to the end which is to be accomplished by its exercise, which I acknowledge I do not clearly and distinctly comprehend, and must therefore be excused from answering. I speak now of the public newspapers, to which I am compelled to resort to ascertain the objections which are made to this

measure, as gentlemen have persevered in refusing to assign the reasons which have induced them to oppose the passage of the bill. But, sir, I can clearly comprehend that the right to erect light-houses is not incidental to the power of regulating commerce, unless everything is incidental to that power which tends to facilitate and promote the prosperity of commerce. It is contended that under the power to lay and collect taxes, imposts, and duties, you can pass all laws necessary for that purpose, but they must be laws to lay and collect taxes, imposts, and duties, and not laws which tend to promote the collection of taxes. A law to erect light-houses is no more a law to regulate commerce, than a law creating a bank is a law to collect taxes, imposts, and duties. But the erection of light-houses tends to facilitate and promote the security and prosperity of commerce, and in an equal degree the erection of a bank tends to facilitate and insure the collection, safe-keeping, and transmission of your revenue. If, by this rule of construction, which is applied to light-houses, but denied to the bank, Congress can, as incidental to the power to regulate commerce, erect light-houses, it will be easy to show that the same right may be exercised, as incidental to the power of laying and collecting duties and imposts. Duties cannot be collected, unless vessels importing dutiable merchandise arrive in port; whatever, therefore, tends to secure their safe arrival may be exercised under the general power; the erection of light-houses does facilitate the safe arrival of vessels in port, and Congress therefore can exercise this right as incidental to the power to lay imposts and duties.

But it is said the advocates of the bank differ among themselves in fixing upon the general power to which the right to create a bank is incidental, and that this difference proves that there is no incidentality, to use a favorite expression, between that and any one of the enumerated general powers. The same reason can be urged, with equal force, against the constitutionality of every law for the erection of light-houses. Let the advocates for this doctrine lay their finger upon the power to which the right of erecting light-houses is incidental. It can be derived with as much apparent plausibility and reason from the right to lay duties, as from the right to regulate commerce. Who is there, now, in this body who has not voted for the erection of a light-house? And no man who reads one of these will believe it to be a regulation of commerce. And no man in the nation, so far as my knowledge extends, has ever complained of the exercise of this power. The right to erect light-houses is exercised, because the commerce of the nation, or the collection of duties, is greatly facilitated by that means; and, sir, the right to create a bank is exercised because the collection of your revenue, and the safe-keeping and easy and speedy transmission of your public money is not simply facilitated, but because these important objects are more perfectly secured by the erection of a bank than they can be by any other means in the

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power of human imagination to devise. We say, therefore, in the words of the Constitution, that a bank is necessary and proper, to enable the Government to carry into complete effect the right to lay and collect taxes, imposts, duties, and excises. We do not say that the existence of the Government absolutely depends upon the operations of a bank, but that a national bank enables the Government to manage its fiscal concerns more advantageously than it could do by any other means. The terms necessary and proper, according to the construction given to every part of the Constitution, imposes no limitation upon the powers previously delegated. If these words had been omitted in the clause giving authority to pass laws to carry into execution the powers vested by the Constitution in the National Government, still Congress would have been bound to pass laws which were necessary and proper, and not such as were unnecessary and improper. Every legislative body, every person invested with power of any kind, is morally bound to use only those means which are necessary and proper for the correct execution of the powers delegated to them. But it is contended, that if a bank is necessary and proper for the management of the fiscal concerns of the nation, yet Congress has no power to incorporate one, because there are State banks which may be resorted to. No person who has undertaken to discuss this question has, as far as my knowledge extends, ventured to declare that a bank is not necessary. Every man admits, directly or indirectly, the necessity of resorting to banks of some kind. This admission is at least an apparent abandonment of the Constitutional objection; for, if a bank is necessary and proper, then have Congress the Constitutional right to erect a bank. But this is denied. It is contended that this idea rests alone upon the presumption that the Government of the United States is wholly independent of the State governments, which is not the fact; that this very law is dependent upon the State courts for its execution. This is certainly not the fact. The courts of the United States have decided, in the most solemn manner, that they have cognizance of all cases affecting the Bank of the United States. Sir, it is true that the Government of the United States is dependent upon the State governments for its organization. Members of both Houses of Congress, and the President of the United States, are chosen by the State governments, or under the authority of their laws. But it is equally true, that wherever the Constitution confides to the State governments the right to perform any act in relation to the Federal Government, it imposes the most solemn obligation upon them to perform the act. The Constitution of the United States, as to these particular acts, is the constitution of the several States, and their functionaries are accordingly sworn to support it. Can it, then, be seriously contended, that because the Constitution has in some cases made the Government of the United States dependent upon the State governments, in all which cases it has imposed the most solemn obligations upon them to act, that it will

be necessary and proper for Congress to make itself dependent upon them in cases where no such obligation is imposed? The Constitution has defined all the cases where this Government ought to be dependent upon that of the States; and it would be unwise and improvident for us to multiply these cases by legislative acts, especially where we have no power to compel them to perform the act, for which we have made ourselves their dependents. In forming a permanent system of revenue, it would be unwise in Congress to rely, for its collection and transmission, from one extreme of this extensive empire to the other, upon any accidental circumstance, wholly beyond their power or control. There are State banks in almost every State in the Union, but their existence is wholly independent of this Government, and their dissolution is equally so. The Secretary of the Treasury has informed you that he conceives a bank is necessary to the legitimate exercise of the powers vested by the Constitution in the Government. I know, sir, that the testimony of this officer will not be very highly estimated by several honorable members of this body. I am aware that this opinion has subjected him, and the committee also, to the most invidious aspersions; but, sir, the situation of that officer, independent of his immense talents, enables him to form a more correct opinion than any other man in the nation of the degree of necessity which exists at the present time for a national bank, to enable the Government to manage its fiscal operations. He has been ten years at the head of your Treasury; he is thoroughly acquainted with the influence of the bank upon your revenue system; and he has, when called upon, declared that a bank is necessary to the proper exercise of the legitimate powers of the Government. His testimony is entitled to great weight in the decision of this question, at least with those gentlemen who have no knowledge of the practical effects of the operations of the bank in the collection, safe-keeping, and transmission of your revenue. In the selection of means to carry any of your Constitutional powers into effect, you must exercise a sound discretion; acting under its influence, you will discover that what is proper at one time may be extremely unfit and improper at another. The original powers granted to the Government by the Constitution can never change with the varying circumstances of the country, but the means by which those powers are to be carried into effect must necessarily vary with the varying state and circumstances of the nation. We are, when acting to-day, not to inquire what means were necessary and proper twenty years ago, not what were necessary and proper at the organization of the Government, but our inquiry must be, what means are necessary and proper this day. The Constitution, in relation to the means by which its powers are to be executed, is one eternal *now*. The state of things now, the precise point of time when we are called upon to act, must determine our choice in the selection of means to execute the delegated powers.

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It is said, that the States have reserved to themselves the exclusive right of erecting banks. That the States have exercised the right of establishing banks is a fact not to be denied, but that they have this right under the Constitution, is extremely questionable. Had these great States, who have undertaken by their instructions to influence the decision of this question by Congress, contented themselves with the exercise of this right to establish banks, I should not, upon this occasion, enter into an investigation of that right. But these great States, not content with the exercise of an usurped authority, are by usurpation attempting to legislate for Congress.

And, sir, what is the inducement with these great States to put down the Bank of the United States? Their avarice, combined with the love of domination. They have erected banks, in many of which they hold stock to a considerable amount, and they wish to compel the United States to use their banks as places of deposit for their public moneys, by which they expect to increase their dividends. And in the banks in which they hold no stock, many of the individual members of their legislatures are stockholders, and no doubt were influenced to give instructions by motives of sheer avarice. The love of power no doubt has had some influence in producing these instructions. Every person, who is not wholly ignorant of the history of this Government, knows something of the influence of these great States upon the councils of the nation. Have we not heard it said, that after three of the great States had instructed their members to vote against the bank, it was a matter of too great delicacy for Congress to think of acting upon the subject? I had thought that the rights of the States were equal; that if the rights of three of the little States were violated or affected in any manner, that it was a subject of as much delicacy as if the rights of three great States had been affected. Sir, if this doctrine becomes fashionable; if two or three great States can upon all occasions, through the agency of their legislatures, control the deliberations of Congress, you will compel the smaller States, by the most direful necessity, to adopt the principle of one consolidated government. Which of the States are to be principally benefited by the dissolution of the bank? Those States in which the principal part of your revenue is to be collected. The great commercial States are to monopolize the benefits which are to arise from the deposits of your public money. The suppression of this bank will benefit none of the interior or smaller States, in which there is little or no revenue collected. As the whole benefit is to be engrossed by three or four of the great Atlantic States, so the whole of the power which the dissolution of this bank will take from the National Government will be exclusively monopolized by the same States. Is it desirable to increase the influence of these great States, which is already too great, at the expense of the United States? Does not the history of these great States admonish us in the most impressive terms to beware of placing

this Government in a state of dependence upon them? Sir, the time has been, and it will certainly arrive again, when some one or more of these great States will be found in a state of hostility to the National Government; and with this knowledge you are about to place the management of your public money in the hands of the State banks, who are dependent for their legal existence upon the State governments. But, sir, permit me to examine this exclusive right of the State governments to create banks. In the tenth section of the first article of the Constitution of the United States, it is declared, among other things, that no State shall coin moneys; emit bills of credit; make anything but gold or silver a tender in the payment of debts. What, sir, is a bill of credit? Will it be contended that a bank bill is not a bill of credit? They are, emphatically, bills of credit. But it may be said, that the States do not, by the creation of banks with authority to emit these bills of credit, infringe upon the Constitution, because they do not emit the bills themselves. If they have not the power to emit bills of credit, *a fortiori*, they cannot delegate to others a right which they themselves cannot exercise. But, sir, according to the maxims of law and sound reason, what they do by another they do themselves. If, then, the State governments are restrained from exercising this right to incorporate a bank, it would appear *ex necessitate rei* that this right is vested in the Government of the United States. The entire sovereignty of this nation is vested in the State governments and in the Federal Government, except that part of it which is retained by the people, which is solely the right of electing their public functionaries. The right to create a corporation is a right inherent in every sovereignty; the people of the United States cannot exercise this right. If, then, the States are restrained from creating a bank with authority to emit bills of credit, it appears to be established that the Federal Government does possess this right. If, however, it is still believed that the law by which this bank has been created was the result of a forced construction of the Constitution, yet I must contend that that construction is entitled to some weight in the decision of this question. The time and state of the public mind, when this construction was given, gives it a strong claim to consideration upon this occasion. This construction was given shortly after the Government was organized, when first impressions had not been effaced by lapse of time, or distorted by party feelings, or individual animosity. This law did not pass in the hard unconstitutional times which produced the Sedition law. No, sir, this law passed in the best days of this Republic. At that time the idea of party, as now understood, was wholly unknown. The parties which then existed were literally Federal and anti-Federal. Those who were friendly to the Federal Constitution, and those who were inimical to it, formed the only party then known in this nation. What, sir, is the situation in which we are now placed? What are the cir-

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cumstances under which we are called upon to reject this bill? The great influential States, induced by motives of avarice and ambition, interpose the weight of their authority; attempt to put a veto upon your right to pass such laws as are necessary and proper for the general welfare, through the instrumentality of instructions, by depriving not only their Senators and Representatives of the exercise of a sound and honest discretion, but also by intimidating others by the weight of their influence and authority. The Democratic presses in these great States have for more than twelve months past teemed with the most scurrilous abuse against every member of Congress who has dared to utter a syllable in favor of the renewal of the bank charter. The member who dares to give his opinion in favor of the renewal of the charter, is instantly charged with being bribed by the agents of the bank, with being corrupt, with having trampled upon the rights and liberties of the people, with having sold the sovereignty of the United States to foreign capitalists, with being guilty of perjury, by having violated the Constitution. Yes, sir, these are the circumstances under which we are called upon to reject the bill. When we compare the circumstances under which we are now acting with those which existed at the time when the law was passed to incorporate the bank, we may well distrust our own judgments. Sir, I had always thought that a corporation was an artificial body, existing only in contemplation of law; but if we can believe the rantings of our Democratic editors in these great States, and the denunciations of our public declaimers, it exists under the form of every foul and hateful beast and bird, and creeping thing. It is an *Hydra*; it is a *Cerberus*; it is a *Gorgon*; it is a *Vulture*; it is a *Viper*. Yes, sir, in their imaginations it not only assumes every hideous and frightful form, but it possesses every poisonous, deleterious, and destructive quality. Shall we, sir, suffer our imaginations to be alarmed, and our judgments to be influenced, by such miserable stuff? Shall we tamely act under the lash of this tyranny of the press? No man complains of the discussion in the newspapers of any subject which comes before the Legislature of the Union. But I most solemnly protest against the course which has been pursued by these editors in relation to this question. Instead of reasoning to prove the unconstitutionality of the law, they charge members of Congress with being bribed or corrupted. And this is what they call the liberty of the press. To tyranny, under whatever form it may be exercised, I declare open and interminable war. To me, it is perfectly indifferent whether the tyrant is an irresponsible editor or a despotic Monarch.

Mr. President, if the construction which has been given to the Constitution is entitled to no weight with the members who now compose the Senate, will it also be contended that the different acts of successive democratic Congresses, by which they have sanctioned the validity of the construction under which this bank was created,

are entitled to no weight or consideration? Perhaps it would be unfair to lay any stress upon the simple acquiescence of our democratic predecessors in this measure. I shall therefore show, that the acts to which I allude were positive affirmative acts, and not simply, or in any degree, acts of acquiescence. By the charter, the corporation was authorized to establish offices of discount and deposit wheresoever it should think fit, within the United States. In the year 1803, the United States obtained Louisiana by purchase. Under the authority given in the charter, the corporation could not extend its branches into Louisiana. In the year 1804, a democratic Congress passed a law to authorize this devouring monster to lay its destructive fangs upon the unfortunate people of these newly acquired Territories. It has been said that the State governments were competent to resist the execution of this law. How ungenerous, then, was it in our democratic predecessors to authorize this institution, with its pestilential fangs, to seize upon these helpless and unfortunate people, who had no State governments competent to resist the execution of this law, and shield them from the deadly poison of this venomous viper. It was unkind; it was cruel. Permit me, sir, to make one or two observations upon this competency of the State governments to resist the authority or the execution of a law of Congress. What kind of resistance can they make which is Constitutional? I know of but one kind, and that is by elections. The people and the States have a right to change the members of the National Legislature; and in that way, and in that alone, can they effect a change of the measures of this Government.

It is true there is another kind of resistance which may be made, but it is unknown to the Constitution. This resistance depends upon physical force—it is an appeal to the sword—and by the sword must that appeal be decided, and not by the provisions of the Constitution.

We are informed, however, that the States thought it most prudent to acquiesce in this law, and waive the right of resisting it, to which they were so entirely competent.

Does the positive sanction of this measure by our democratic Congresses rest alone upon this act of 1804? No, sir; the act by which the bank was incorporated made no provision for the punishment of those who might counterfeit its bills and checks. In the year 1798, a law for the punishment of such offences was passed. In the year 1807, a democratic Congress, composed of many of the same members who are now called upon to act again upon the subject of the bank, passed a law also for the punishment of the same offences against the bank. This is not all, sir; so great was the unanimity of both Houses upon this question, that the bill passed through both Houses without producing a call for the yeas and nays upon its final passage, or in any of its intermediate stages. The Constitution says, Congress shall make laws "to provide for the punishment of counterfeiting the securities and current coin

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of the United States." I have shown that the power to punish counterfeiting the current coin was fairly incidental to the power of coining money. But the power to punish counterfeiting the securities is an original grant of power, and not incidental to any one of the delegated powers. As the Constitution has given the power to punish counterfeiting the securities and the current coin, expressly, according to the doctrine contended for by the enemies of the bank, the power to punish any other species of forgery is withheld. But let us pursue this idea a little further. The law incorporating the bank is denounced as unconstitutional; it therefore is not binding upon the people of the United States as a law, and yet the very men who denounce it, who declare it to be unconstitutional, have passed a law to condemn those who violate its provisions to ten years imprisonment, and to enormous fines. With what propriety can we say that our republican predecessors have simply acquiesced in this measure? With what consistency can we now refuse to renew the charter on account of the want of Constitutional power? But it is contended that we have done nothing more than simply acquiesced in this measure, and that our acquiescence was wholly the result of a conviction that the act incorporating a bank was a contract. What, sir, is the essence of a contract? That there shall be parties able to contract; that they do contract; that there shall be a consideration, a *quid pro quo*; that the conditions shall be reciprocal. What is the fact in relation to the bank bill? Does the bank make any stipulations in favor of the Government? No, none. Does the charter stipulate that the Government shall provide for the punishment of those who counterfeit bank bills? No. And yet a republican Congress, under the idea, I suppose, of its being a contract, has passed a law for that purpose. The law does not contain one essential feature of a contract; it is, therefore, no contract.

If I have succeeded in establishing the Constitutional right of this House to pass a bill to incorporate a bank, the remaining part of the task which I have undertaken to perform will be easily dispatched. What are the circumstances under which we are called upon to vote against the renewal of the charter of the Bank of the United States? Europe is still convulsed to its centre, by wars which, in their progress, have overthrown the ancient bounds and limits of the independent nations among whom it has been immemorially parcelled out. The established usages and laws of nations have been trampled under foot both by land and sea. Such is the prospect abroad. What is our internal situation? The confiscation of American property in the ports of France, Spain, Italy, and Holland. The depredations committed upon our commerce on the high seas by British cruisers, and the embarrassments to which it has been subjected in the northern ports of Europe, have already produced numerous bankruptcies in most of our commercial cities. In addition to the embarrassments produced by these causes, we have superadded

those which must necessarily result from a non-intercourse with England, the country with which we have hitherto had the most extensive commercial intercourse. From these additional embarrassments we may be saved by the want of good faith in the French Government. Should that be the case, we shall most inevitably be excluded from all commercial intercourse with the European continent, which may be as embarrassing as the non-intercourse with Great Britain. In that event our European commerce will be confined solely to Great Britain and her dependencies. Such, sir, are the circumstances under which we are called upon to dissolve suddenly an institution which circulates \$13,000,000, and to which the commercial class of this nation are indebted \$14,000,000. It must also be remembered, that the same class of your citizens are indebted to the Government nearly \$12,000,000, upon which your payments into the Treasury for the discharge of the current expenses of the year are solely dependent. Sir, I have never believed that the mantle of Elijah has descended upon my shoulders, and yet I can very easily foresee, that individual and national distress must be produced by the sudden dissolution of the bank. The poorer part of your manufacturers and mechanics will be the first to feel the distress. The deputation of mechanics and manufacturers from the city of Philadelphia stated to the committee, that upon the rejection of the bill for the renewal of the charter, in the other House, the bank began to contract its discounts, and that the whole city was filled with alarm and dismay. That the credit even of bank paper was shaken, and individual confidence had received a severe shock. That in consequence of this alarm and distress, the bank had determined to return to its former extent of discounts and to continue it to the last moment. That the contraction of discounts by the Bank of the United States had produced a contraction of discounts in the State banks, so that those who had their accounts with the latter banks were in no better situation than the debtors of the former. Whenever a man testifies against his apparent interest, he ought to be believed. It is apparently the interest of the State banks that the Bank of the United States should be put down. It is their interest to discount good paper as largely as possible. The Bank of the United States discounts to the amount of about \$15,000,000. The dissolution of this bank will bring into the market, which will then be solely occupied by the State banks, an excess of \$15,000,000 of good paper to be discounted. The demand for discounts, when compared with the discounting capital, will be greatly increased, and the benefit of that increase will be exclusively enjoyed by the State banks; it is therefore apparently their interest that the Bank of the United States should be dissolved. But they have petitioned for the renewal of the charter.

It is said, however, that if so much distress is to flow from the dissolution of the bank, it proves that the banking system is deleterious in its consequences. I will not now enter into the discus-

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sion of that question, because it is not the question before the Senate. The system has long been practised upon; is increasing from day to day, and is wholly beyond the control of Congress. But, sir, an inspection of the Journals of the Senate of the present session affords abundant evidence, that this House, at least, believe that the banking system is a beneficial one. We have not incorporated more, I believe, than five banks within the District of Columbia during the present session. The renewal, or the refusal to renew this charter, does not then decide the question whether the banking system shall be abolished in the United States or not. Gentlemen cannot but be sensible of this. The old Congress incorporated the Bank of North America in the year 1781. New York and Massachusetts had followed the example before the Bank of the United States was incorporated, and every State in the Union has since incorporated banks. The banking system has been too long and too deeply rooted, to be frowned out of existence by Congress. If, however, gentlemen are convinced that the system of banking known and established among us is injurious in its effects, these injurious effects will be diminished by renewing the charter of the Bank of the United States. The State banks, whose credibility in this case is unquestionable, have told you that the influence of the Bank of the United States upon them is a beneficial one; that it prevents excessive discounts and emissions of paper, which but for this check would inevitably take place in the State banks. Every one of the State banks of Philadelphia, except one, has petitioned for the renewal of the Bank of the United States, and one of the deputation of merchants who was a director of one of those banks stated the reason why that bank had declined. That an association in some of the interior towns had been formed without the authority of law, and that the bank was suspected by the State Legislature of having favored it; that a motion had been made in the State Legislature to inquire into the fact, and that, in consequence of this circumstance, that bank had been prevented from petitioning. The check which one bank has upon another is in fact the only substantial check which can be devised against excessive discounts and emissions by State banks. You may limit and restrain them by subjecting the directors individually to any loss which may be incurred by a violation of the restrictions imposed by the charter. Suppose they discount to twice the amount permitted, and the stockholders, who alone have the means of discovery, ascertain the fact; they will not disclose it, because disclosure would destroy the credit of the bank. But it is objected to the renewal of the charter, that it has been a political machine in the hands of our political opponents, and that it has been partial in its operations. That it may have been so used is very possible; but that it has within the last twelve years not so used is not believed. Some of the delegation of the mechanics, all of whom I believe were democrats, had been dealers with that

Bank for twelve years, and they all united in contradicting all idea of its being partial, or influenced in the slightest degree by the political character of its customers during that time. And one of them said explicitly that opposition to the renewal in Philadelphia was confined principally to the newspapers. When there were but few banks and the competition for discounts was great, I can readily believe, that it might have had some influence upon political questions and that it was guilty of partiality; and so would any other institution placed in the same situation. The multiplication of banks in the United States has given us the most ample security against the repetition of either of these offences. The most formidable objection against the expediency of the renewal, in the estimation of those who are opposed to it, is that a large portion of the stock is held by foreigners; and apprehensions are entertained that these foreigners have had, and will again have some influence upon our public councils; that but for the influence thus acquired, we should have taken stronger measures in vindication of our rights. If this influence really exists, some degree of influence must also exist and operate upon those foreigners in our favor. If the most profitable part of their capital is that which is invested in our bank stock, which the Government has sold to them, will they not exert their influence upon their own councils, upon any apprehension of war between the two countries? Surely the country in which their capital is employed, and who can at any moment lay their hands upon it, must have more influence upon the conduct of the capitalists, than they can possibly have upon it. How long shall we frighten ourselves with empty phantoms and imaginary evils? How long shall we indulge ourselves in the pursuit of some imaginary theoretical good, which, like the will-o'-the-wisp, continually eludes our grasp? Sir, we have the experience of twenty years for our guide. During that lapse of years your finances have been, through the agency of this bank, skilfully and successfully managed. During this period, the improvement of the country and the prosperity of the nation have been rapidly progressing. Why then should we, at this perilous and momentous crisis, abandon a well tried system; faulty perhaps in the detail, but sound in its fundamental principles? Does the pride of opinion revolt at the idea of acquiescing in the system of your political opponents? Come! and with me sacrifice your pride and political resentments at the shrine of political good. Let them be made a propitiatory sacrifice for the promotion of the public welfare, the savor of which will ascend to Heaven, and be there recorded as a lasting, an everlasting evidence, of your devotion to the happiness of your country.

TUESDAY, February 12.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis,

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Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory," reported it without amendment.

On motion, by Mr. GILMAN,

*Resolved*, That a committee be appointed to inquire into the expediency of opening another passage to the gallery, on the west side of the Senate Chamber, and to propose such alterations as they may deem proper.

*Ordered*, That Messrs. GILMAN, GREGG, and DANA, be the committee.

Mr. DANA, from the committee to whom was referred the bill for the benefit of seamen of the United States, reported it amended; and the amendments were read, and ordered to be printed for the use of the Senate.

Mr. DANA also communicated a letter to the committee, from the Secretary of the Department of State, on the subject of naturalized American seamen; which was read; and ordered to be printed for the use of the Senate.

The bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes, was read the second time.

The bill, entitled "An act to authorize the election of sheriffs in the Indiana Territory," was read the second time and referred to a select committee, to consider and report thereon; and Messrs. CAMPBELL, FRANKLIN, and LEIB, were appointed the committee.

The bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act concerning Consuls and Vice Consuls,' and for the further protection of American seamen," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, GILMAN, and BRENT, were appointed the committee.

The Senate resumed the motion of the 8th instant, "That a committee be appointed to bring in a bill making compensation to certain officers of the customs;" and, on the question to agree thereto, it was determined in the negative.

Mr. TAYLOR presented the memorial of Joseph Wheaton, praying remuneration for services rendered to the United States in the Revolutionary war, and compensation for losses sustained therein; and the memorial was read, and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. TAYLOR, BRADLEY, and DANA, were appointed the committee.

The Senate resumed the consideration of their amendment, disagreed to by the House of Representatives, to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and for other purposes."

On motion, by Mr. TAIT, that the Senate recede from the said amendment, it was determined in the negative—yeas 11, nays 19, as follows:

YEAS—Messrs. Anderson, Campbell, Condit, Crawford, Franklin, Lambert, Matthewson, Robinson, Smith of Maryland, Tait, and Whiteside.

NAYS—Messrs. Bayard, Bradley, Brent, Champlin,

Dana, Gaillard, Giles, Gilman, Goodrich, Gregg, Horsey, Leib, Lloyd, Pickering, Reed, Smith of New York, Taylor, Turner, and Worthington.

On motion, by Mr. TAIT,

*Resolved*, That the Senate insist on their amendment to the said bill.

The engrossed bill authorizing the sale and grant of a certain quantity of public land to the Havre de Grace Bridge Company was read the third time, and the blanks filled.

On motion, by Mr. WORTHINGTON, that the further consideration of the bill be postponed to the first Monday in December next, it was determined in the negative. And on the question, Shall this bill pass? it was determined in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Anderson, Bayard, Giles, Goodrich, Gregg, Horsey, Leib, Pickering, Reed, Smith of Maryland, Smith of New York, Whiteside, and Worthington.

NAYS—Messrs. Bradley, Champlin, Condit, Crawford, Cutts, Franklin, Gaillard, Gilman, Lambert, Lloyd, Matthewson, Robinson, Tait, and Turner.

The bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of the Public Moneys to superintend the public sales of land in the district east of Pearl river," was read the third time as amended.

*Resolved*, That this bill pass with amendments.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Bank of Potomac;" and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Bank of Washington," and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the subscribers to the Farmers' Bank of Alexandria," and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Union Bank of Georgetown."

On motion, by Mr. BRENT, they were referred to a select committee, to consider and report thereon. Messrs. BRENT, POPE, and CRAWFORD, were appointed the committee.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

Mr. LEIB said that it was not his intention to have broken silence on this subject; he meant to content himself with a silent vote, as he considered the merits of the bill to be well understood, and every member's mind made up on them. The subject had become so trite, and was so hackneyed, as to have become threadbare, and he united in opinion with his friend from Tennessee,



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that it was not only a waste of time, but a work of supererogation to discuss it. He should not have risen but for some remarks, which had yesterday fallen from the gentleman from Georgia. Some intimation had been given by him about instructions from the great States, and while it seemed to be matter of complaint that such instructions had been given, it appeared also that the complaint extended to the non-production of them to the Senate. He had received instructions from a great State, as the gentleman from Georgia had termed it; for he did not recollect that the gentleman from Maryland, to whom the phrase was attributed, had used it—the great State of Pennsylvania; and those instructions he would have offered to the Senate before, had not some informality in their shape precluded him. The instructions having been mentioned, he deemed it a duty to read them to the Senate.

*In the General Assembly of the Commonwealth of Pennsylvania.*

The people of the United States, by the adoption of the Federal Constitution, established a General Government for special purposes, reserving to themselves respectively the rights and authorities not delegated in that instrument. To the compact thereby created, each State acceded in its charter as a State, and is a party; the United States forming, as to it, the other party. The act of union, thus entered into, being to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise; for if it were so to judge, then its judgment and not the Constitution would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the Constitution, it rests with the States and with the people to apply suitable remedies.

With these impressions, the Legislature of Pennsylvania, to secure an administration of the Federal and State Governments conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz: the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognised in that instrument, either expressly or by any warrantable implication: Therefore,

*Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, That the Senators of this State in the Senate of the United States be and are hereby instructed, and the Representatives of this State, in the House of Representatives of the United States be, and they hereby are, requested to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State without first having obtained the consent of the Legislature of such State.*

*Resolved, That the Governor be and he hereby is requested to forward a copy of the above preamble and*

resolution to each of the Senators and Representatives of this State in the Congress of the United States.

JOHN WEBER, *Speaker H. R.*

P. C. LANE, *Speaker of the Senate.*

In the House of Representatives, January 11th, 1811. Read and adopted.

Attest: GEORGE HECKERT, *Clerk H. R.*

In Senate, January 11th, 1811. Read and adopted.

Attest: J. A. McJIMSEY, *Clerk of the Senate.*

Wherefore, he would ask, was this made a cause of complaint? The instructions were given by the Legislature of Pennsylvania to their representatives. Was the right of the constituent denied to instruct his representative? For the instructions extended not beyond the representation. It was an affair between representatives and constituents, and as it did not proceed beyond them, as none else were comprehended, surely no cause could have been given for complaint. For his part he assented to the right of constituents to instruct, and was ready to yield it obedience—it was in accordance with his political maxims; and he should ever consider himself bound to obey instructions as long as they did not require the performance of an act, which would violate that oath which he had taken. On this occasion he yielded obedience with pride and pleasure, as the instructions corresponded with his own impressions of solemn obligation. He considered himself as the representative of the State of Pennsylvania; to represent, in his mind, was to appear for, or stand in the place of the body represented, and, in this view, he considered it his duty to speak the sense of his constituents, to do as they would do, were they present, otherwise he should misrepresent them. Did this look like dictation? Did it appear as if the great States desired to give law to the smaller ones, when they only gave their instructions to their own representatives, and none else were asked to render them obedience? He could not suppose it.

Allusion had been made to Pennsylvania on account of resistance to the laws of the United States. He felt the reproach, and had often experienced mortification from it. He had never countenanced unlawful opposition, nor had the people of Pennsylvania; for when it had existed, it had been local, and had never embraced the State; and therefore, the people of Pennsylvania were not comprehended in the reproach. The gentleman from Georgia had cited authority for renewing the charter of the Bank of the United States, and had at the same time disclaimed authority; in imitation of his example he would do so too, and he might say, that for the excitement to insurrection in a part of Pennsylvania he might refer to a source of authority as high as the gentleman from Georgia had referred for the establishment of the bank charter.

Some reasons had been assigned for the refusal of the Farmers and Mechanics Bank of Philadelphia to unite with the other banks in petitioning for a charter, which did not appear to him to be correct. The gentleman who gave the information to the committee was a director of the

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Bank of Philadelphia, and his information must have been derived from out-of-doors rumor. The Farmers and Mechanics Bank, Mr. LEIB apprehended, refused to petition for the renewal of the charter of the Bank of the United States, for other reasons. He knew a gentleman who managed the affairs of that bank, of superior intelligence and information, and second to none in point of knowledge of banking, who was as much opposed to a renewal as he was, and for a reason not unlike that hinted at by the gentleman from Georgia, that the Bank of the United States was a check upon the other banks, but a check like that of a shark upon the little fish around him. It was in the power of the Bank of the United States, by means of its great capital and the Governmental patronage, to prey upon the other banks whenever it pleased, and this was sufficient reason for the Farmers and Mechanics Bank to refuse its aid towards a renewal of the charter. These remarks he thought it his duty to submit to the Senate, and, in conformity with his first determination, he avoided any remarks upon the merits of the bill, which he conceived every member was already prepared to decide upon.

Mr. LLOYD.—Mr. President: This is indeed, sir, an up-hill, wind-mill sort of warfare—a novel mode of legislative proceeding. That a bill should be brought in on a very important subject which has been long under consideration, and that a gentleman should move to strike out the first section of the bill, which comprises all its vitality, (for it is the first section which provides for the continuance of the bank,) and should be supported in it, without deigning to assign any other reasons than may be derived from newspaper publications, which are so crude and voluminous that not one man out of ten will so far mispend his time as to take the trouble to read them, is indeed extraordinary. Still, if gentlemen choose to adopt this dumb sort of legislation, and are determined to take the question without offering any arguments in support of their opinions, I certainly should not have interfered with their wishes, had I not been a member of the committee who had reported the bill, who had heard the testimony offered by two very respectable delegations from Philadelphia; one from the master manufacturers and mechanics of the city, and the other from the merchants; and had I not taken minutes of this testimony, which I find it is expected from me that I should relate to the Senate.

Sir, I consider the motion to strike out, now under consideration, as going to the entire destruction of the bill, without any reference to its details or modifications; it therefore appears to me in order, to take into consideration only the material principle of the bill; that is, whether it be proper that the charter of the bank should be renewed on any terms whatever, let those terms be what they may.

[Mr. SMITH of Maryland stated, that the gentleman was mistaken; he was at liberty to go into consideration of the details, and might discuss them if he pleased.]

I had thought, Mr. President, that when a sec-

tion of a bill was moved to be struck out, that the subject-matter of the part so moved to be stricken out was only in order to be considered—but however this may be, I take it to be strictly in order to show, that this bank has been ably and fairly conducted, that it has been beneficial to the country, and extremely useful to the Government; because if this be shown, it will be the best argument that can be adduced for the rejection of the present motion, and the continuance of the bank.

Sir, it is admitted by the Secretary of the Treasury, in his communications to Congress, that the concerns of this bank have been "skillfully and wisely managed," that the bank has made a very limited and moderate use of the public moneys deposited with it; and that it has greatly facilitated the operations of Government by the safe-keeping and transmission of the public moneys. It has at all times met the wishes of the Government in making loans. It has done this even at six per cent., while the Government have been obliged, in one instance, for a considerable amount, to pay eight per cent. to other persons for the loans obtained from them. It is admitted, sir, that the bank, at the request of the Treasury Department, has established branches for the purpose of facilitating the operations of the Government at places where such establishments could not but be inconvenient to them in point of management, and disadvantageous in point of profit. I allude more particularly, sir, to the branches of the bank which have been established at New Orleans and at Washington. We have been told this session, sir, by a gentleman from Maryland, (Mr. SMITH,) that the Territory of Orleans is a very wealthy one, that it probably contains a greater number of rich inhabitants, for its population, than any other district in the Union. Sir, if this be the fact, of whom does this wealthy population consist? Not of the inhabitants, but of the planters; men who are not borrowers of the bank, who, when they realize the sales of their produce, invest the surplus proceeds of it beyond their expenditure in the funds, or in the acquisition of new lands, or in the purchase of an additional number of negroes. Sir, it is notorious, that from the recent possession by the United States of Louisiana, and the certainty that New Orleans must soon be the emporium of an immense western commerce, that city has become more the resort of the young, the adventurous, the enterprising, and the rash among the mercantile men of our country, than any other city in the Union; and it is obvious, sir, in proportion as the borrowers from a bank consist of persons of this description, in the same proportion must the circumstances of such bank be unsound; and without possessing any particular knowledge whatever on the state of this bank, if the collections of its debts are speedily made, I would not make the purchase at a discount of twenty-five per cent. from the nominal amount of them.

Sir, we can judge with more accuracy when we come nearer home. What is the state of the

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bank in this city? What the ability of its debtors to meet their engagements? It is stated the branch has a loan out here of four hundred thousand dollars. Where is the navigation?—where the wealthy merchants?—where are the opulent tradesmen?—the extensive manufacturers, to refund this money, when they are called on to do it? Sir, they are not to be found; they do not exist here; there are but very few opulent men in the city, and those are either not borrowers of the bank, or not borrowers to an amount of any importance. Where then is the money to be found, or what has been done with it? It has probably been taken out of the Bank of the United States to build up the five or six District banks which you have chartered the present session; to furnish the means of erecting the fifty or sixty brick houses which we are told have made their appearance during the last Summer; to encourage speculations in city lots, and to enable the proprietors to progress with the half finished canal which nearly adjoins us. Well, sir, if the bank promptly calls in its loan of four hundred thousand dollars, will the debtors be enabled to meet their payments? Can they sell these lots, these brick houses, these canal shares? No, sir, in such a state of things they could find no purchasers, they could nearly as well create a world as to furnish the money; and if the bank is to stop, and the payment of this debt be speedily coerced, I would not give two hundred thousand dollars for the whole of it.

In addition to this, I shall show presently, from testimony which cannot be controverted, that the conduct of the Bank of the United States, or its directors, or rather the stockholders, whose agents they are, in addition to being wise and skilful, and moderate, as the Secretary of the Treasury states them to have been, that they have also been honorable, and liberal, and impartial; and if, in addition to this, it be proved, that the bank has, in every instance where it had the ability to do it, met the wishes of the Government, and to facilitate its views in the security and collection of the revenue, it has also established branches where it must have been obviously and palpably to the disadvantage of the bank to do it—if it has furnished capitals for the extension of our commerce, if it has provided means for the establishment of important manufactures, if it has had a tendency to raise the price of our domestic produce, and has thus encouraged industry, and improved and embellished the interior of the country—it would seem pretty strongly to follow, that if it be expedient to preserve the existence of an institution similar to this, then these gentlemen, on the score of merit, added to the experience of twenty years successful operation, have a fair claim on the Government for a preference in favor of that which is already in operation.

I am aware, sir, that it may be stated in opposition to this claim, that these stockholders have enjoyed a boon for twenty years from which others of their fellow-citizens have been deprived, except on such terms as the sellers of shares chose to prescribe; that the charter expires by its own

limitation, and that beyond this period they have no right to expect anything which may not arise from the interest and convenience of the Government. I admit, sir, there is considerable strength in these objections. The exclusive right contained in the charter ever appeared to me as furnishing the most solid Constitutional objection against the bank. The creation of monopolies; the granting of exclusive privileges, except so far as to secure to the authors of useful inventions the benefit of their discoveries; the tying up of the hands of the Legislature, and depriving itself of the power of according to a set of citizens, who may come into legal existence to-morrow, or ten years hence, what it had given to another; ever appeared to me hostile to the genius and spirit of the people of the United States, and of all their institutions. Highly then, sir, as I am induced to think of the conduct of this bank, from the best evidence I can obtain, still, from the considerations I have just mentioned, did the question now before us simply affect the stockholders, I should certainly not trouble the Senate with any remarks in reference to it, and should sit down in entire acquiescence, whether the prayer of their petition for the renewal of the charter of the bank were granted or rejected.

Sir, before quitting this idea of Constitutional objection, permit me to make one or two brief remarks in regard to it. It is impossible for the ingenuity of man to devise any written system of Government, which, after a lapse of time, extension of empire, or change of circumstances, shall be able to carry its own provisions into operation—hence, sir, the indispensable necessity of implied or resulting powers, and hence the provision in the Constitution that the Government should exercise such additional powers as were necessary to carry those that had been delegated into effect. Sir, if this country goes on increasing and extending, in the ratio it has done, it is not impossible that hereafter, to provide for all the new cases that may rise under this new state of things, the defined powers may prove only a text, and the implied or resulting powers may furnish the sermon to it.

Permit me, sir, to put one question on this head, in addition to those so ably, and to my view, unanswerably put yesterday by the honorable gentleman from Georgia (Mr. CRAWFORD.) Whence, sir, do you get the right, whence do you derive the powers to erect custom-houses in the maritime districts of the United States? To attach to them ten, fifteen, or twenty custom-house officers; and clothe these men with authority to invade the domicile, to break into the dwelling-house of perhaps an innocent citizen? Whence do you get it, sir, except as an implied power resulting from the authority given in the Constitution "to lay and collect taxes, duties, imposts and excises." If, under this authority, you can erect these custom-houses and create this municipal, fiscal, inquisitorial *gens d'armes*, with liberty to violate the rights of the citizen, to break into his castle at midnight, without even a form of a warrant, on a plausible appear-

ance of probability, or probable cause of suspicion of his secreting smuggled goods, which the event may prove to be unfounded—and it will be recollected that a majority of Congress voted for the grant of this power in its most offensive form, when two years since they voted for the act enforcing the embargo—I say, sir, if under this general power to collect duties, you can erect the establishment and give the offensive power just mentioned, can you not, with the concurrence even of the citizens, adopt another more mild and useful mode, and create an establishment for the collection and safe-keeping of the revenue, and place it under the direction of ten or twelve directors, and christen it an office of discount and deposit, or of collection and payment, as you like best? And can you not, when you have thus created it, give to the directors a power, which perhaps they would have without your grant, to receive and keep the cash of those who choose to place it with them and to loan them money at the legal rate of interest, and in some places, as at New York, at nearly fifteen per cent. above the legal rate of interest? If you can do this, then you have your bank established, sir—and, most assuredly, if you can do one of these things you can do the other.

Sir, the Constitutional objection to this bank, on the ground that Congress had not the power to grant an act of incorporation, has ever appeared to me the most unsound and untenable. Still gentlemen of intelligence and of integrity, who have thought long and deeply on the subject, think differently from me; and I feel bound to respect their opinions, however opposed they may be to my own. Yet, sir, I will venture to predict, without feeling any anxiety for the fate of the prophecy, that should this bank be suffered to run down, such will be the state of things before this time twelve months, that there are other gentlemen, who at present have Constitutional objections, but who have not thought so long and deeply upon them, will, before that time, receive such a flood of intelligence, as on this head perfectly to dispel their doubts, and quiet their consciences.

Sir, I shall now proceed as briefly as may be in my power to state the situation of this bank on the expiration of its charter, and the effects on the community consequent on it. There is now due to the bank from individuals, fifteen millions of dollars. These fifteen millions of dollars must be collected—the power of the bank to grant discounts will have ceased, and the duty of the directors must require them to make the collection. Sir, how is this to be done? Whence can the money be obtained? I shall demonstrate to you presently, that already, from an apprehension of a non-renewal of the charter of the bank, business is nearly at a stand—that navigation, real estate, and merchandise are unsaleable; and that a man worth one hundred thousand dollars, at the recently rated value of property, and owing ten thousand dollars, must still be utterly unable to meet his engagements. Suppose, sir, this property consists in houses or shipping; suppose his

warehouse is full of goods, and he has a large sum placed at his credit in England? If, sir, he can neither sell his ships, nor his goods—if he cannot sell his real estate nor scarcely give away his exchange, which hitherto, to men who had money in England, has been a never failing source of supply in case of need; I say under these circumstances, sir, whatever may be his property, he cannot meet his engagements. Sir, can men thus situated, solvent as they ought to be ten times over, find relief from the State banks? Certainly not, sir. These banks have already gone to the extreme length of their ability; they have always discounted to an amount in proportion to their capital exceeding that of the Bank of the United States, which is incontrovertibly proved by the dividends they have declared, which have at most universally equalled and frequently exceeded those of the Bank of the United States, notwithstanding the advantage enjoyed by the latter from the deposit of public moneys. Sir, so far from having it in their power, in the case of the dissolution of the Bank of the United States, to assist the debtors to that bank in meeting their engagements to it—I affirm the fact, on which I have myself a perfect reliance, that, take the State banks from Boston to Washington, and after paying their debts to the Bank of the United States, they have not, nor do I believe they have had, for six months back, specie enough to pay the debts due to their depositors, and the amount of their bills in circulation. And here I beg it to be observed, that bank bills, and bank deposits, or credits, are precisely the same thing—with this difference, that the latter, from the residence in the neighborhood of the banks, and the vigilance of the proprietors, would be the first called for. How idle is it then to expect to obtain relief from banks which have already extended themselves beyond the bounds of prudence, and have not even at present the ability to meet their existing engagements? It might nearly as well be expected, that a man who was already a bankrupt should prop and support his failing neighbor.

Sir, much has been recently said of the amount of specie in the United States. Theoretical men have made many and vague conjectures about it, for after all it must rest upon conjecture; some have estimated it at ten millions of dollars—some twelve, some twenty, and some newspaper scribblers at forty millions of dollars. Sir, I do not believe that for the last ten years the United States have at any time been more bare of specie than at the present moment. A few years since, specie flowed in upon us in abundance. This resulted principally from an operation of a very singular and peculiar nature. The Spanish Government, as it was then understood, agreed to pay to France a very large sum of money—many millions of dollars, the precise number I am unable to state, from her possessions in South America. France contracted with a celebrated English banking house, as was said at the time, with either the concurrence or connivance of the English Government, that this money should be obtained through

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the United States. These bankers, by their agent, contracted with certain American houses, principally I believe in Baltimore, for the importation of this specie from La Vera Cruz into the United States, from whence it was not transmitted in coin to Europe, but invested in adventures in the shipments of produce, the proceeds of which ultimately go into the hands of these bankers in London, or of their friends on the Continent, from whom it was finally realized by the French Government, either by drafts from Paris, or remittances to that city. This operation had a trebly favorable effect on the United States—it made fortunes for some of the merchants, it furnished the means of shipments to Europe, and it also provided the funds for adventures to the East Indies and to China. But this contract has now been finished some years; and since that time there has been a constant drain of specie from the country. Where it is in future to be procured from, I know not. Not from South America. Specie is, I believe, protected from exportation there, except to Spain. From Spain we cannot get it—to a great part of what was Spain we have now scarcely any trade. From France it cannot be obtained, for if we can get there even by license, we are obliged to bring back her produce or manufactures. From England it cannot be imported—it is now made highly penal to attempt to send it out of the kingdom. With South America we have but little trade—hitherto we furnished them with smuggled or licensed European and India goods; but now the markets are flooded with these goods, by importations direct from England, and which have been attended with great loss to the shippers. For these reasons, it is difficult to find a vessel sailing from the United States to the Spanish ports in South America. These are among the reasons why the amount of specie now in the country is small, and has for some time past been gradually lessening. Sir, without indulging in vague conjectures, what are the best data we have to form an estimate of the amount of specie in the country? The Bank of the United States has five millions of dollars in its vaults. In Boston there are three State banks—in New York I believe four, Philadelphia four, and Baltimore eight—call these nineteen twenty, and allow on an average one hundred and fifty thousand dollars specie, which probably is as much as they generally possess, and this will make three millions of dollars; this amount, united to the sum in the vaults of the Bank of the United States, gives eight millions of dollars—to which, if you allow two millions of dollars for a loose circulation of specie, you get an aggregate of ten millions of dollars. We are sometimes told of the large sums of money hoarded in our country by individuals—probably there may be some among the German farmers in Pennsylvania—perhaps more in that State than in any other, or all the others in the Union; but still of no great amount—the reputation of a little money possessed in this way easily swells into a large sum. At any rate, let the amount be what it may, in time of distress

and mistrust, it would afford no addition to your circulating medium; for it is precisely in times like these, that men who hoard money will lock it up most securely.

Sir, the circulation of our country is at present emphatically a paper circulation—very little specie passes in exchange between individuals—it is a circulation bottomed on bank paper and bank credits, amounting perhaps to fifty millions of dollars. And on what, sir, does this circulation rest? It rests upon the ten millions of dollars, if that be the amount of specie in the country, and upon public confidence.

The Bank of the United States has fifteen millions of dollars to collect—call it ten, sir—nobody will dispute this—no one will pretend that this bank is not solvent—the remnant of its surplus dividends, and the interest it will have earned, will be sufficient to cover its losses at New Orleans, at Washington, and perhaps elsewhere. In what are these ten millions of dollars to be collected? In bank bills, the credit of which is at least doubtful? No, sir, in specie; and when this is entirely withdrawn from the State banks, and the banks are unable to pay the money for their bills, who does not see that this confidence is instantly destroyed—that the bubble bursts—that floods of paper bills will be poured in upon them, which they will be unable to meet, and which will for a time be as worthless as oak leaves—that the banks themselves must, at least temporarily, become bankrupts, and that a prostration of credit, and all those habits of punctuality which, for twenty years, we have been striving so successfully to establish, will inevitably ensue, and, with them, also, there must be suspended the commerce, the industry and manufactures of the country; and a scene of embarrassment and derangement be produced, which has been unexampled in our history.

I will now make a very few remarks on the effects which the dissolution of the bank will have on the revenue and fiscal concerns of the country. Can it be supposed, sir, that the source to which will be imputed the distress that will have flowed from this event, will be the first to be thought of to be guarded against a participation of the evils that will result from it, in preference to the claims of the most intimate friends and connexions? No, sir, the bonds due to the United States will be collected only at the tail of an execution. But I mean not to press this consideration. Admit, for a moment, that they will all be equally well collected—that they will be paid as usual, although it is palpable that for a considerable time the merchants will be unable to find the means to pay them: Yet, admit, sir, that the money is collected in the State banks, how is it to be transmitted? It must come to the centre of the seat of Government; very little of the public money is expended in the Northern section of the Union. Will it come from the Eastward, in bills of the State banks? Penobscot bank bills sometimes will not pass in Boston; Boston bills pass with difficulty in New York or Philadelphia; and the bills of New York State banks probably

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would not be readily current in Washington. You must then, sir, if Boston gives you a revenue of two millions of dollars, transmit the greater part of it to the seat of Government, or wherever it may be wanted in specie. Can this be done? We have not two millions of dollars of specie in our town, and, I may almost venture to say, never had. Suppose you make this transmission once, can you do it a second time? No, sir, the thing is utterly impracticable. You must adopt some other mode. Exchange between the different cities will not reach the case; frequently it cannot be purchased even for an insignificant amount.

Sir, will your money, when collected, be safe in the State banks? Of this I am extremely doubtful. Solicitations will undoubtedly be made for it from all quarters. They have already been made. In one instance, I am told, sir, the agent of a bank, even during the few past weeks, has been here for the purpose—that suddenly the agent was gone, and in a few days it was discovered that, owing to the failure of one of the debtors to the bank which he represented, (a great broker,) the stock had fallen in one day near 20 per cent. What was this the evidence of, but that those who were most interested in this bank, the stockholders who were on the spot, and best acquainted with its solidity, were willing to wash their hands of their concern in it, at almost any rate of sacrifice? Sir, I only state this, as it was here reported. I have no personal knowledge on the subject. But will you trust your funds with an institution thus precarious, and whose solidity is distrusted even by its best friends?

By an account of the receipts and expenditures for the year 1810, laid on our tables, I find there has been passed to the credit of the United States, \$390 received from the Lincoln and Kennebec Bank, in Massachusetts, as an interest on the public money while deposited at that bank. The history of this credit of interest, is, I presume, the following: The money was deposited at the bank for account of the United States; the bank used the money for its own accommodation, and, when called on for the amount, could not refund it. This allowance of interest is therefore for the time during which the bank could not pay the money. The amount in this instance is small, sir, and the United States have received a compensation for the use of the money. It proves, however, what has been done, and will be done again. Suppose it should be done on a large scale, and when the Government wants its funds, it cannot command them—interest on the amount will not pay the salaries of the officers of the nation—it will not feed your armies, nor support your navy—it must derange the whole system of the Government, and perhaps bring it to a stand still. I have no hesitation, sir, in declaring, that in my opinion if the collection and transmission of the public moneys be intrusted exclusively to the State banks, that at least great trouble, perplexity, and occasional defalcation, will ensue.

I shall now present, sir, to the Senate, the testimony which was offered to the committee by the two delegations from Philadelphia, the one

selected from the master manufacturers and mechanics, and the other from the merchants of that city. It will go conclusively to show the effects which it is apprehended will issue from the cessation of the Bank of the United States in a city, the first perhaps in population and wealth in the Union, and the one least engaged of any of the great seaports, in proportion to its wealth, in foreign commerce.

The agents from the manufacturers and mechanics told their story in a plain, straightforward manner, each one narrating facts which affected himself, and came within the scope of his personal observations. The representatives of the merchants took a wider scope, and entered into general reasonings which would present themselves generally to the minds of others, and to the members of the Senate; this explanation is here made to account for the cause why the former testimony, which was very impressively given to the committee, will be stated in detail, and the latter be presented in a much more compressed and concise form.

Mr. Leiper, a respectable, wealthy, and extensive tobaccoist, and a proprietor also of some stone quarries, which furnish considerable building stone to the masons in Philadelphia, informed the committee, that he had been long and extensively engaged in a tobacco manufactory. He employs upwards of a hundred workmen, and the expenses of his business amount to about one hundred and sixty dollars a day; he believes that the dissolution of the Bank of the United States would produce a scene of distress in the seaports unprecedented in our country; that it would stop one-half of the master manufacturers and mechanics of the city; that already confidence was nearly destroyed; the debts due to manufacturers and mechanics were on open accounts, on which it was impossible to make collections to any amount of consequence; that the manufacturers and mechanics must, unless the state of things be altered, in a great measure stop their business and dismiss their workmen, and very many of them sacrifice their property, or lose their reputation and stop payment. Money, he said, could not be commanded a short time since, however good the security offered; he generally met his engagements easily; he had however shortly before leaving home occasion to remit to his correspondent at Richmond, where he was in the habit of having considerable quantities of tobacco purchased, fourteen hundred dollars; he had on hand, towards this sum, eight hundred dollars, and found considerable difficulty in procuring the remainder; it had however been done since he left home, and remitted, with directions, however, to the agent to make no more purchases, nor to enter into any new contracts for his account.

Mr. Leiper further stated, that the pressure for money which recently existed in Philadelphia, has, for the moment, been relieved, although scarcely any sales or purchases are making, except at greatly reduced and destructive rates to the seller. This relief had been obtained by the Bank of the United States agreeing to continue

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its full discounts to the 4th of March next; and from the State banks, calculating on the forbearance of the Bank of the United States, having liberally issued new paper. The Bank of Pennsylvania, of which Mr. Leiper has been for many years a director, recently let out in one week eighty thousand dollars of new money; but if the Bank of the United States is not continued, this momentary relief would only extend the evil, as it would enlarge the liabilities, and still further increase the pressure and distress, and want of money which must then arise.

About seventeen years since, Mr. Leiper felt hurt at the conduct of the Bank of the United States in rejecting his paper; he left the bank and did his business elsewhere; since that time he had heard no complaints; he believed the concerns of the bank had been conducted fairly and liberally, and that discounts had been afforded to democrats as well as to federalists, to manufacturers and mechanics as well as the merchants.

Mr. Leiper, sir, has been a zealous and unwavering partisan of the persons now in power, since the adoption of the Federal Constitution, and his testimony will not probably be thought entitled to less weight on that account.

Mr. Grice, a respectable master ship carpenter, in large business, informed the committee that there are now building, in Philadelphia, 9,145 tons of shipping, a list of which he exhibited to the committee, a larger amount of tonnage than was ever before on the stocks in that city, and which, when finished, would cost about a million of dollars; that the whole of this shipping had been contracted for, except about one thousand tons; that the work was to be done and delivered in the course of the ensuing Spring; that there were employed in the city, in connexion with this business, about two thousand persons; that, owing to the apprehensions excited by the expected non-renewal of the charter of the Bank of the United States, great inconvenience had been already experienced by all classes of men in that city; that confidence was nearly destroyed; he could neither obtain money to pay his workmen or to carry on his business; that the former, unless a change took place, he must dismiss; that such had been the rapid growth of the navigation of the United States, it was difficult to procure good workmen, it was highly important to keep them in the country, and would be extremely disadvantageous to have them drawn out of it; that already, owing to the great increase of ship-building in Canada, agents were endeavoring to induce them to leave the United States for that country, where they could earn more money than at home. That if the bank were obliged to stop, the master ship-carpenters could neither borrow money nor collect their debts, and must, of necessity, dismiss their workmen, in which case very many of them would leave the United States, and probably never return. That he did not believe that more than two or three of the persons who had contracted for vessels, in the event of the dissolution of the bank, would be

able to fulfil their contracts; that, in consequence, the vessels would be left on the hands of the builders, who, on their part, would be unable to meet their engagements; and that the vessels must finally be sold for the most that they would fetch, probably at half their value, to the great loss, and perhaps ruin of the builders.

He had been himself largely in business, and had dealt for many years with the Bank of the United States; he had ever been treated liberally and kindly by it; he viewed himself indebted in a considerable degree for his present standing in society, to the accommodations he had received at that bank; still, in the course of his business, he occasionally took notes, at three, four, or six months, which, having a longer time to run than that at which the bank discounted, of sixty days, he found it convenient to convert into money; this hitherto he could always readily do, by carrying the notes to a wealthy merchant for whom he sometimes did business, and who hitherto had always been willing to discount them for him at bank interest; that being cut off from his usual discounts at the bank, he recently endeavored to avail himself of this resource, but found it wholly shut against him; that the gentleman, whose funds had hitherto appeared inexhaustible, would now afford no relief; confidence was destroyed; he knew not who was safe; he would make no new discounts, were the answers he obtained instead of money.

Mr. Grice stated, that this out-of-door discounting had been of great service to the manufacturers and mechanics, as they could frequently get money from it, when they could not obtain discounts at the banks; he had reason to believe that the amount of money thus employed in the city, at the legal and advanced rates of interest, was not less than seven millions of dollars; that this resource was now wholly cut off; they who had money would not loan it at any rate, and kept it on hand, either to secure it, or to derive an exorbitant advantage from the necessities and sacrifices of others. Mr. Grice believed, that, with very few exceptions, all classes in Philadelphia were in favor of the renewal of the charter of the bank; without it, he believed great numbers of persons would be rendered bankrupts, and general distress, at least among the manufacturers and traders, would ensue.

Mr. Vogdes, a master house-carpenter, in extensive business, informed the committee there were at this time building about five hundred brick houses in Philadelphia, two-thirds of which belonged to the mechanics of the city, who, are in the habit of purchasing lots of land on credit, and who, with their own capitals, which in many instances are small, and by borrowing of the banks or of individuals, and buying materials on credit, are enabled to erect buildings, on the sale of which they depend for the means of meeting their engagements; that he himself at present owns buildings of this description, on the sale of which he had calculated, to the amount of one hundred and thirty thousand dollars. He employs one hundred workmen.

Mr. Vogdes stated that he had been in the habit of receiving a moderate accommodation at the bank; he had ever been well treated by the bank; the directors had recently reduced his notes, but not in so great a degree as the State banks had done; that the expected termination of the charter of the Bank of the United States had greatly incommoded him, and others probably more; it had nearly suspended all business among the manufacturers and mechanics; it had stopped all sales of real estate, which he does not believe could now be effected at so high a rate within thirty per cent. as the sales could have been made at some time since; he had himself engaged to sell two houses, one for ten thousand dollars, the contractors for which had fallen from their engagements, under one small pretence or another, but really, as he believes, from the change of times, and the difficulty there existed in procuring money to meet the engagements even of the most wealthy persons; he himself had a note of one of the most respectable and undoubted men in the city; he offered it at three banks, but could not obtain a discount on it, and was finally obliged, in order to meet his engagements and pay his workmen, to sell it at one-and-a-half per cent. per month discount; he knew a broker who had notes to the amount of half a million of dollars lying by him for sale, which were considered good, but which he could not discount at any rate; he had a mortgage which he was constrained to sell at eighteen per cent. for twelve months; and his son, to pay his workmen, was obliged to have his note discounted on the best terms at which it could be done, which were at two per cent per month.

Mr. Vogdes is concerned in some rolling and slitting mills, which work about five hundred tons of iron annually. The proprietors have now on hand about one hundred tons of manufactured iron; commonly it is very saleable—at present, owing to the causes that have been mentioned, there is no demand for it. It is usual for manufacturers of iron to lay in their stocks when the importations are largest, generally late in the Autumn; this, several of them have done. The price is usually from \$108 to \$120 per ton—it has, however, fallen, from the pressure of the times, to eighty-five dollars per ton. This difference the manufacturers must suffer, which, in addition to the want of sale for their manufactures, and the other disadvantages under which they labor, if relief be not speedily obtained, must ruin most of those who have not large capitals to enable them to sustain the shock.

He does not believe that political considerations enter at all into the direction of this bank. He has no knowledge of a well-founded complaint of any mechanic, democrat or federalist, not receiving a discount if entitled to it, and the circumstances of the bank would admit of it. He stated that this was no party question; that, with a very few exceptions, all classes in Philadelphia are in favor of the renewal of the charter of the bank. He is authorized to say, that the person who now has, and for the last twelve months has

had, the largest accommodation at the bank, is one of the best known and most leading democrats in the city. If the charter be not renewed, it is his opinion, the most serious and general distress will be the consequence.

Mr. Ord, a respectable rope manufacturer, stated to the committee that he worked up annually in his manufactory about one hundred tons of hemp; that he seldom wanted discounts—when he did, he obtained them with facility from the Bank of the United States, where he had been always well treated, and the business of which, he believed, had been conducted fairly and liberally, without reference to any party or political views whatever. He had hitherto been able to carry on his business with ease. He had large debts out, but now all confidence was destroyed; he could collect nothing—nor could he, without receiving his debts or borrowing money to meet his engagements; and, if times did not change, he must stop his business and dismiss his workmen, as must most of the other manufacturers of cordage in the city; that, at present, all business was at a stand—no sales could be effected. Hemp, which, shortly since, was at \$350 per ton, had fallen to \$250, without finding a market. He had recently bought some at \$200 per ton, which had sustained so small a degree of damage as to make it scarcely worth naming. Kentucky yarns were also unsaleable, although there were never so many ships on the stocks in Philadelphia, and the cordage for which must be principally manufactured from these yarns, which, but for the present state of things, would have risen rather than declined in price, as the vessels building would have been rigged in the ensuing Spring; that the cordage for them would have been wanted nearly at the same time, and could be made much sooner from yarns than from hemp, which would have given them the preference.

Mr. Ord fully concurs with the other gentlemen in the distress which would be produced in consequence of a dissolution of the charter of the bank.

Mr. Fœring, an intelligent and respectable currier of leather, informed the committee that he was in the habit of purchasing domestic and foreign hides to a large amount, which, after manufacturing, he sold to his customers in the interior, and to the boot and shoemakers in the city, generally on a credit of six months—which, however, frequently extended to twelve months before he received his money; he also ships considerable quantities of leather to other parts of the United States. There are about forty curriers in Philadelphia, and from two to three thousand persons, including those who work the leather, are dependent on this manufactory in the city; a considerable number of whom, he believes, (unless some relief is obtained) from the present scarcity of money, will be greatly distressed, and be dismissed from employment. He has kept his account principally with the Bank of the United States; has always been well treated, and has derived a great facility in his business, both to the North and South, by the bank collecting his



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debts for him, and passing the amount to his credit in Philadelphia, free of commission and the risk of remitting money. This, he believes, is generally done by the bank for the merchants, manufacturers, and mechanics, who may request it, and cannot be done by the State banks, because they have not branches in the different seaports of the United States, even if they had the disposition to do it. He has hitherto been able to command, with ease, as large an amount of money as his business required; at present, he cannot collect his debts, nor sell his stock, nor get discounts at the banks. Having failed to do it at the Bank of the United States he applied to a State bank, where he had made some deposits, but without success.

Mr. Fœring states that confidence is beginning to be impaired even in bank paper. He shortly since bought some hides of an opulent farmer, with whom he had dealt before, and who had always, without objection, received his payment in checks or bank bills; in the recent sale, he, however, declined at first to receive them—after some persuasion he did take them, but immediately went to the bank and demanded the money and took it home with him. Very many of the manufacturers and mechanics have accounts open with the Bank of the United States. He has found discounts more readily obtained there than at the State bank. When he left Philadelphia, he had no personal knowledge of any one director of the banks. He has heard no complaints for many years of the conduct of the bank, the affairs of which he believes to be liberally and honorably conducted. He believes the only consideration with them in discounting, is, whether the paper which is offered be good or bad, without reference to political principles or conduct of the party offering it.

Mr. Fœring asserts that, in Philadelphia, this is no party question; nearly all classes wish for a continuance of the bank. He does not believe there are a hundred master manufacturers and workmen in the city, who would not readily have signed the memorial had there been time for it. The subscription was very hastily filled up; for, although it contains the names of between five and six hundred master manufacturers and mechanics, and not one name of any other description, it would have included a large number of others. He carried round one of the memorials, and met with scarcely any one who refused to sign it. He does not believe one out of a hundred would object to it—it was not true that it was a party question—he was a democrat—the whole delegation were democrats; some of them were from the very focus of democracy, the Northern Liberties; and yet they were anxious the charter of the bank should be renewed; indeed, if it were not, or some other relief obtained, a great many of the mechanics and manufacturers must stop their business, dismiss their workmen, and some of them be ruined, as they could now neither by loans nor by collections get money enough to meet their engagements and pay their expenses. The journeymen and laborers have not yet felt

the pressure, because they have been kept in employ, from the hope that business and confidence would be renewed, and money again become as plenty as it had been. Should this not be the case, the clamor and distress will then be heard and felt more universally and extensively.

This, sir, was the narration which was most impressively delivered to the committee. In the sentiments of the delegation there was no variance; all the members of it stated the anxiety and wish for the renewal of the charter, which pervaded nearly all ranks, in the city of Philadelphia. They united in the opinion that party considerations did not mingle with the question; that if the bank were permitted to run down, they should individually be great sufferers; that a scene of embarrassment and distress would overwhelm great numbers of the citizens; that the State banks could afford no relief, having already extended their discounts to the utmost limits of prudence, calculating on the renewal of the charter, or the forbearance of the Bank of the United States; if this were not obtained, the mischiefs they have described must be experienced, and the manufacturers and mechanics would fall the first sacrifices—for the merchants were in the habit, either by auction or otherwise, of selling their property for endorsed paper or collateral security, while the manufacturers and mechanics were left exposed on a single name, as it never was their usage to demand security, nor could they do it; were they to attempt it, they would give offence to their employers, and lose not only their present but all future business from them; and, of consequence, severely as the merchants would suffer by this unexampled stopping of business, the manufacturers and mechanics would feel it still more seriously, and numbers of them undoubtedly be ruined.

A delegation from the merchants of the city of Philadelphia, composed of very respectable men, and equally divided as regards an attachment to the two great political divisions in our country, were heard before the committee. They confirmed the representations that had been made as to the conduct of the bank—the absence of party influence from its management—the interest which was excited for its continuance—the stagnation of business, and the prostration of credit, and all habits of punctuality, which they believed would ensue from its dissolution. They also stated the serious loss it would occasion to the Government from the inability of the importers to pay their bonds, and their disbelief in the ability of the State banks to afford any permanent relief. These gentlemen gave it as their opinion that the more liberal these banks were now, the worse would be their situation when the Bank of the United States ceased its discounts; that if the affairs of that bank were speedily wound up, the State banks could not meet their engagements and pay for the notes they had in circulation, and that they must of course stop payment as well as the merchants; that in such a state of things, the depositors would withdraw their deposits instantly, and the bank notes which were

in circulation would immediately return upon the banks, when they would be unable to pay them; that, already, a considerable degree of suspicion was beginning to prevail of the security of bank paper; that there had been recently brought to the Bank of North America notes which had been issued twenty years before, and were supposed to have been lost, but which distrust had again brought to light. That neither navigation nor merchandise, nor exchange, however unexceptionable, could now be disposed of, except at great sacrifices; that flour had fallen in price from eleven to seven and three-quarters of a dollar, or eight dollars a barrel; that the house to which one of the gentlemen belonged, one of the first in point of standing in the United States, had recently received orders for the shipment of thirty thousand barrels of flour, which, from the uncertainty of finding funds, or procuring purchasers for bills of exchange, as heretofore, lucrative as was the commission, they had declined to execute. That it was the belief of these gentlemen that the dissolution of the bank and the collection of its capital at so unfortunate a period as the present, when so much property was otherwise absorbed and sequestered abroad, would be attended with extremely injurious consequences to the commercial, agricultural, and manufacturing interests, and to the revenue and prosperity of the country.

Sir, I shall neither trespass further upon your time, nor weaken this testimony by any comments of mine. I have now only to ask the indulgence of the Senate while I trouble them with a few additional observations, and those chiefly of a personal nature. Most certainly, sir, I am not acting under the bias of any sinister influence, or partiality, in advocating the renewal of the charter of this bank. I do not own a share of the stock, nor have I owned one for a considerable time past, nor do I owe to the institution a dollar. A few years since I was in the direction of one of its branches—the Bank in Boston—and I was left out of it with very little ceremony; not because I had abused the confidence reposed in me, for at the time I was left out of the direction I did not owe to the bank a single cent, either on my own account, or as surety for another, and my accommodation at the bank had never been large. I was then young, and possessed of but little property, and to enable me to exercise an independence of action, which I hope ever to preserve, I thought it proper to abstain in a considerable degree from accommodations to myself, in order that I might be enabled, if necessary, more freely to check undue accommodations to others. Still, sir, this was a conduct towards me not calculated to produce any peculiar partiality for the institution. It is true I was subsequently offered, from a source which I respected, a seat again at the Board of Directors, with the understanding that I should retain it as long as I pleased. This I declined, and should ever have declined it. Although from these circumstances it cannot be expected that I should feel any particular regard for the bank, yet still I am bound to say I feel no

hostility towards it. I believe it has been an extremely useful institution; and from a personal knowledge of the management of the affairs of the Branch Bank at Boston, I freely declare, that in my opinion it is impossible for the concerns of any moneyed institution to be conducted with more correctness, integrity, and impartiality—with more discretion towards the public, or greater safety towards the corporation which created it. I know the directors. They are honorable and estimable men—and at the head of the bank is a gentleman, an Essex junto man perhaps he may be called, who would grace any station in any country.

Sir, I have received from the most numerous branch of the Legislature of Massachusetts a request that I would oppose the renewal of the charter of this bank. I receive the request, sir, with all the deference and respect which is due from me to an expression of the opinion of that honorable body. It has induced me to examine my sentiments, to reweigh and deliberately reflect upon them. Having done this, and having come into office, without an intimation of a wish on my part for public life—without a single stipulation as to my political opinions, or an indication of the course I should pursue, I can only say, I should not act, on a question in which I considered the public interests as implicated, in opposition to the convictions of my own mind, deliberately formed, in consequence of the request, or if you please instruction, of the entire Legislature of the State which I have in part the honor to represent, much as I am bound both by duty and inclination to respect it, nor in consequence of the request or instruction of all the congregated legislatures on earth. I believe the renewal of the charter of the bank will avert many evils, and I shall vote for it.

It will probably be said, sir, that the distresses which will be incident on the dissolution of the bank have been greatly exaggerated, that a city in this vicinity is ready to meet the consequences, and to set them at defiance. Let it be recollected, that in the five New England States, a country for which it is both my pride and pleasure to avow a marked partiality, we have but one branch of the Bank of the United States, and that with a capital of only \$700,000. Surely, then, if a single city, with a population of thirty or forty thousand persons, can meet these consequences, we can sustain them—but we shall undoubtedly suffer much inconvenience, not however so great a degree of it, as any other district on the seaboard of the United States.

It is possible, sir, that apprehension may have magnified the evils which are to flow from the dissolution of the bank—it is possible, in this untried state of things, there may be found a power of expansion in the moneyed market of the country, which will be equal, or nearly equal, to the unexpected demand that may be made upon it. Should this be the result, I should be extremely gratified to have been mistaken. I should rejoice in my own disappointment.

When Mr. LLOYD had concluded his speech the Senate adjourned to to-morrow morning.

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WEDNESDAY, February 13.

The credentials of NICHOLAS GILMAN, appointed a Senator by the Legislature of the State of New Hampshire, for the term of six years, commencing on the 4th day of March next, were read, and ordered to lie on file.

Mr. BRADLEY, from the committee to whom was referred, on the 21st January, the petition of Moses Austin and John R. Jones, made report.

Whereupon, the further consideration of the petition was postponed to the next session of Congress.

Mr. WORTHINGTON, from the committee to whom was referred the bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory, reported it without amendment.

Mr. W., from the committee to whom was referred the bill to extend the right of suffrage in the Indiana Territory, and for other purposes, reported it without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government for the year eighteen hundred and eleven;" and the bill having been amended, the President reported it to the House accordingly. And on the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate, entitled "An act making a further distribution of such laws of the United States as respect the public lands," with amendments; in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act for the relief of Peter Audrain;" also, a bill, entitled "An act establishing navy hospitals;" in which bills they desire the concurrence of the Senate.

The two bills last brought up for concurrence were read, and passed to the second reading.

The President communicated a letter from Robert Beverly, stating that he had resigned his appointment to the office of President of the Union Bank of Georgetown; and the letter was read, and referred to the committee to whom was recommended the bill to incorporate the Union Bank of Georgetown.

The Senate resumed, as in Committee of the Whole, the bill to establish the districts of Memphremagog, of Oswegatchie, and of the White Mountains. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. GILMAN, from the committee appointed to consider the subject, made report. Whereupon,

Ordered, That the Secretary of the Senate be directed to pay sixty-five dollars, out of the contingent fund of the Senate, for defraying the expense of opening a new passage to the gallery on the west side of the Senate Chamber.

Mr. WORTHINGTON, from the committee appointed the 4th instant to consider the subject, reported a bill in addition to the act to regulate the laying out and making a road from Cumber-

land, in the State of Maryland, to the State of Ohio; and the bill was read, and passed to the second reading.

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The Senate resumed the consideration of the bill respecting the Bank of the United States.

Mr. ANDERSON spoke in support of his motion to strike out the first section of the bill.

When he concluded, Mr. SMITH, of Maryland, remarking on the lateness of the hour, &c., and the probability that any gentleman wishing to speak could scarcely get through his remarks by the usual period of adjournment, moved a postponement of the subject till to-morrow, and to make it the order of the day for that day.—Carried—13 to 11.

THURSDAY, February 14.

Mr. CUTTS, from the committee, reported correctly engrossed the amendments to the bill, entitled "An act making appropriations for the support of Government for the year 1811;" and the bill was read the third time as amended, and passed.

*Resolved*, That this bill pass with amendments.

Mr. CUTTS, from the committee, also reported correctly engrossed the bill to establish the districts of Memphremagog, of Oswegatchie, and of the White Mountains; and the bill was read the third time, and passed.

The bill in addition to the "Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio;" was read the second time.

The bill, entitled "An act for the relief of Peter Audrain," was read the second time, and Messrs. BRADLEY, GERMAN, and WORTHINGTON, were appointed the committee.

The bill, entitled "An act establishing navy hospitals," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GREGG, LLOYD, and GOODRICH, were appointed the committee.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act making a further distribution of such laws of the United States as respect the public lands," and concurred therein.

Mr. BRENT, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act to incorporate the Union Bank of Georgetown," reported them without amendment; and on motion, by Mr. BRENT, that the bill and amendments be postponed indefinitely, it was determined in the negative—yeas 5, nays 22, as follows:

YEAS—Messrs. Bradley, Brent, Clay, Lambert, and Whiteside.

NAYS—Messrs. Anderson, Champlin, Condit, Crawford, Franklin, Gaillard, German, Giles, Goodrich, Gregg, Horsey, Leib, Lloyd, Mathewson, Pickering, Reed, Smith of Maryland, Smith of New York, Tajit, Taylor, Turner, and Worthington.

The Senate resumed the consideration of the

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amendments to the bill last mentioned, and concurred therein.

A message from the House of Representatives informed the Senate, that the House concur in the second amendment of the Senate to the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river, and disagree to the other amendments. They have passed a bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed;" also, a bill, entitled "An act for establishing trading-houses with the Indian tribes;" in which bills they desire the concurrence of the Senate.

#### BANK OF THE UNITED STATES.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th of February 1791.

The question being to strike out the first section—

Mr. GILES.—Mr. President: It is with great reluctance that I find myself compelled to enter into the discussion of the subject now under the consideration of the Senate, but the observations which fell from the honorable gentleman from Georgia (Mr. CRAWFORD) were of such a character as to impose on me an irresistible obligation to present that view of the subject which has resulted from the best reflections I have been enabled to bestow on it. This obligation arises from the very high respect I entertain for the Legislature of the State I have the honor to represent, the great respect I feel for the gentleman who made the observations, as well as from the respect which is manifestly due to myself. In executing this unpleasant task, I labor under circumstances of peculiar embarrassment. This embarrassment arises from a conviction that the views of the subject now proposed to be exhibited will disappoint the expectations both of the opposers and the favorers of the bill, and that they will not be acceptable to either. I shall not, however, in this instance, depart from my invariable habit, when urged by duty to participate in debate before this honorable body, of disclosing in the most undisguised manner my real opinions upon the whole subject, free of any consideration of political difficulties or inconveniences which may consequently affect myself.

In the first place, I find myself called upon to oppose a law, on Constitutional grounds, which has been in existence for nearly twenty years, and during that period, I am compelled to admit, has been acquiesced in by the several State governments, as well as by the General Government, and its republican administrations. It is peculiarly irksome to me to question the constitutionality of a law which has been thus and so long

acquiesced in, because it tends to give the character of instability to the laws generally, and in my judgment, tends, also, to impair the sacred character of the laws, and, of course, to lessen their efficacy. In a Government like ours, where the laudable boast of every citizen is that he lives under a government of laws, and not of men, no subject should be touched with more caution and delicacy than one which questions the validity of the laws, lessens the confidence of the citizens in them, or impairs the obligation of obedience to them. Yet, sir, the course of observations I propose to make may have some of these tendencies, which I should extremely regret, and this apprehension, of course, produces embarrassment. Connected with this idea is another circumstance of embarrassment. I cannot help observing the inordinate zeal manifested by the opposers of this bill, evidently resulting from a belief that its rejection will lessen the powers of the Federal Government. Although it may be properly directed in the present instance, yet I think I have seen, and fear I may hereafter see the same spirit directed against some of the powers and proceedings of the Government which I have deemed indispensable to its own preservation, and its beneficial efficacy towards the people. It may, perhaps, be thought by some not becoming in me to say that I have not been an inattentive observer of the progress of this Government for twenty years, and more particularly, since the Republican party came into power. Some of the scenes through which I have passed, have produced an impressive influence on my mind. Such is the nature of the Government that its administration will vibrate from one principle to another, and it will always require great wisdom to keep its oscillations from wandering too far. Whilst those who preceded us in power endeavored to legislate into the Constitution an unnecessary constructive energy, leading to what has been called consolidation, it appears to me that we have taken too much the opposite course, leading to disunion and dissolution, by depriving it constructively of its legitimate, necessary, and proper powers. If this course should be unfortunately persevered in, it requires no spirit of prophecy to foresee that the Government will fall to pieces from the want of due energy in the administration of its legitimate powers, or that some extraordinary means must be resorted to for its resuscitation. When we cast our eyes abroad, and see the aggressions committed on our rights by all the belligerents, &c.; when we reflect that we cannot calculate upon a perpetual exemption from wars and other political calamities, the common lot of all nations; when we look at home and see the State Governments interfering with and controlling the proceedings of the General Government, even in relation to measures directed towards these aggressing belligerents; when we look around us at home and see every where the inveterate struggles amongst political partisans for political power; when we recollect the number of choice spirits amongst us not content with the dull pursuits of civil life; when we look at our

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extensive defenceless frontier, almost without limits, and see almost every year ambitious, enterprising individuals with hostile arms in their hands, raised in defiance of the authority of the United States, &c., &c., it appears to me wonderful that gentlemen should be delighted with curtailing the Constitutional powers of the Government and enfeebling its necessary energies. It is the more wonderful when we see the same gentlemen, who seem to consider every curtailment of power as an individual triumph to themselves, the most clamorous against the Government for not taking a manly attitude in repelling foreign aggressions, &c., &c. It appears to me, sir, we often see the same gentlemen, with the best and most patriotic intentions, indulging in these irreconcilable opinions. This is not the first time I have endeavored in a solemn and impressive manner to present this subject to the view of the party now in power. Hitherto my efforts have been unavailing.

Let me now indulge a hope that these reflections will meet with due consideration from those now entrusted by the people with the management of their dearest interests. If inducements to these observations were called for, surely, sufficient could be found during the Republican Administrations. I need only call your attention, sir, to the lessons afforded in the inefficacy of our measures to repel foreign aggressions, to assert our rights, and do ourselves justice, &c., and the causes which have led to this inactivity and feebleness of the Government. They will not be found in any defect of powers in the Constitution, because in that respect they are unlimited; it is because gentlemen, from various weak and groundless alarms and apprehensions, have been unwilling to exert the legitimate energies of the Constitution for those great objects. They have theorized and criticized themselves into such fears of the undue exercise of power, that they will not duly exercise it when indispensably necessary to the national character and interests. It is not my wish to extend the powers of the Constitution beyond the fair and candid interpretation of its meaning, because that, in my judgment, will be sufficient for all salutary purposes. I only regret the unwillingness of gentlemen to act up to that point, and the probable consequences resulting from that indisposition. I have, also, to unite with the gentleman from Georgia (Mr. CRAWFORD) in expressing my regret that in discussing this subject, both within and without the walls of Congress, and particularly in various Republican newspapers, an unwise spirit and zeal should have been manifested, which, being more repulsive than persuasive, have, I verily believe, tended to defeat their own object, and to put at hazard the rejection of the bill. Why, on this subject particularly, should we witness such a display of intolerance and denunciation? Why the illiberal assertion of improper motives to the Republican members who support the bill? Can any good result to the nation, to the Republican party, or to the favored side of the question, by this course of conduct?

May it not produce an injurious influence on all? The subject certainly presents fair grounds for a difference of opinion amongst individuals; and even amongst Republicans, without searching for the causes of this difference in corrupt motives. Why, then, upon this particular occasion, should the free exercise of opinion be hunted down by a spirit of intolerance or denunciation? It was this spirit which, more than any other cause, blasted the hopes of the republican principles in France, and, if indulged in to excess, will destroy it in any other country upon earth. In the due administration of a republican Government, truth and right alone ought to be sought after, and they can only be found by leaving the mind free to investigation, by guarantying to all its faculties the most perfect exemption from all terror and alarm. I hesitate not to say that, in my judgment, this spirit, if indulged in, will become more dangerous to the due administration of this Government, more deleterious to its proceedings, than the adoption of any one single measure, however unwise or impolitic—even than the renewal of the charter of the Bank of the United States for twenty years, which now seems to be the cause, or the pretext for exciting and stimulating this unfortunate spirit. I am ready to admit, too, that I have never seen this spirit displayed with more positive assertion and bold denunciation upon any question than upon the present. This circumstance induced the gentleman from Georgia (Mr. CRAWFORD) to indulge himself in severe and most sensitive invectives upon this topic, and, in my judgment, not without cause. But it would have afforded me great pleasure, if the gentleman could have prevailed on himself to have viewed these proceedings “in the calm light of mild philosophy,” and not to have presented to the Senate an example in himself, in appearance at least, of the passions and prejudices he so justly reprehended in others. I think I do not mistake myself, Mr. President, when I profess to enjoy the most entire exemption from this baneful spirit of intolerance—when I profess to feel the greatest respect for the gentlemen who differ from me on this occasion, and for their motives, when I profess to express all possible indulgence and forbearance towards the opinions of those gentlemen, and feel, at the same time, conscious that I shall stand in need of the same liberality myself, from both sides of the question. Indeed, sir, I would not deign to accept a victory in argument, founded solely upon the ascription of improper motives to my antagonist. It is my intention to give the arguments of the gentlemen on the other side of the question the most impartial and attentive consideration. I know the gentlemen are personally entitled to it, and their observations merit it.

The honorable gentleman from Georgia, (Mr. CRAWFORD,) who reported this bill, as the chairman of the committee, to whom the subject was generally referred, excited not a little surprise in my mind by the prefatory remarks which fell from him in support of it. The gentleman prefaced his arguments by observing, “that it had

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latterly become the fashion to eulogize the Constitution of the United States; and that whenever he heard lavish encomiums applied to it, he could not help apprehending mischief." I acknowledge I could not comprehend the bearing of this remark upon the question under discussion. I, sir, have long been in the habit of venerating the Constitution, and have often expressed my admiration at the wisdom of its provisions; and I really had hoped that I might have been indulged in these sentiments and prepossessions, and even the expression of them upon proper occasions, without exciting in the mind of any gentleman apprehensions of mischief; nor can I divine what species of mischief the gentleman apprehends from that cause. Mr. President, when we look over the whole world known to us; when we particularly cast our eyes over that part of it, with which we have the most intimate relations; when we see the rapid strides which despotism is making over the whole human race; when we observe the various and powerful means now in use to rivet its immovable dominion upon mankind; when we reflect that the Constitution of the United States now affords the only practical experiment upon the republican principle, and the only and last hope for the preservation and extension of the liberties of man; is it wonderful or alarming, that we should feel and express some partiality and even veneration for an instrument of so peculiar a character? or should even endeavor to teach others to venerate, to cherish, to support it? An instrument, whose provisions at least exempt us from the general scene of despotism, and may eventually extend their blessings to the whole human race? Or if, in dwelling upon the wisdom and importance of its provisions, we might pass over some possible defects without scrutinizing them with an hypercritical eye, might not the omission be indulged without producing animadversion or censure? Sir, we all venerate the republican principle. I know the gentleman from Georgia (Mr. CRAWFORD) does; nor do I pretend that my devotion to it is greater than his; but, sir, I have given the greatest attention to the observations of the gentleman upon the Constitution; and I can now say that my veneration for the instrument, and admiration at the wisdom of its provisions, are not at all impaired nor diminished, notwithstanding the gentleman's criticisms, &c. I will now, Mr. President, endeavor to exhibit the general character of the Constitution; to point out the mode for its correct interpretation, and apply it to the subject now under consideration. In doing so, I propose to follow the course of observations made by the honorable chairman of the committee who reported the bill.

The gentleman proceeded to remark, that in taking a review of the Constitution he found general as well as incidental powers enumerated therein. I did not see the precise application the gentleman intended to make of this remark, but I have been induced to review the Constitution in reference to this subject, and it does ap-

pear to me, that the classification and definition of powers is as well arranged as human wisdom could devise. I know that nothing is perfect which is the work of man; that no language is capable of perfect definition. But, as far as definition can be drawn from language, I conceive the Constitution exhibits as perfect an example as is in existence. In the next place, the gentleman remarked that there was a number of cases in which Congress had departed from the particular enumerated powers in the Constitution, and had resorted to implication or construction for the derivation of its powers. The remark is perfectly correct, and I am very ready to admit that there is no such thing as carrying into effect enumerated powers in any instrument whatever, without the intervention of certain derivative and implied powers. But if the gentleman had succeeded in showing that there had been aberrations by the Congress of the United States from the enumerated powers of the Constitution, would he think it correct to use those aberrations as precedents for still further aberrations? Ought they not rather to be considered as mementoes on the part of Congress to induce them to tread with more care, and, if they find that their former errors could not be supported by a fair and candid construction of the Constitution, to restrain the laws within its wholesome provisions? Certainly that is the use to which the history of errors presented by the honorable gentleman from Georgia ought to be applied. But, before I proceed to examine the subject with more accuracy, I cannot avoid to express my surprise at another observation which fell from the gentleman. The gentleman observed, that the argument drawn from the distinction between ends and means was "incomprehensible;" and he went so far as to call it "nonsensical jargon." It is not only comprehensible to me, sir, as I conceive, but, in my opinion, is the only way in which a just construction of the Constitution is to be attained. This results from the peculiar nature and organization of the instrument. Permit me here to endeavor to illustrate my idea by a reference to the Constitution itself. The Constitution is an instrument which grew out of the situation of the United States at the time of, and preceding its adoption; and to show that the Constitution recited the great objects of its formation, and then prescribed the means for carrying them into effect, I beg leave to refer to a part of the instrument itself. The preamble, like all other preambles, was designed to express the objects of the instrument or the ends to be effected by its provisions. "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity; do ordain and establish this Constitution for the United States of America." What is the plain language of this preamble? The answer is obvious. That certain great *ends* or *objects* are here proposed to be effected. In

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what mode, or by what *means* are they to be effected? The preamble tells you, sir, "by establishing this Constitution for the United States of America." That is the mode in which these great *ends* are proposed to be effected, and the body of the instrument prescribes the *means*, which were deemed necessary and proper to the effectuation of these *ends*. This subject will be better understood by throwing the mind back to the period of time when this Constitution originated, and reviewing the peculiar political situation of the United States then, and for some time antecedently thereto.

At the time, and antecedently to the establishment of the present Constitution, the existing State governments were in possession of all the powers of sovereignty, subject only to feeble and inefficient articles of confederation, without the means of executing their own will, and resting for its execution solely on requisitions upon the respective States, which might either comply or refuse to comply with such requisitions at their discretion. A non-compliance was almost invariably the result of State deliberations, and hence the feebleness of the old Confederation. The present Constitution was adopted as the remedy for this great and alarming evil. Without it, disunion and ruin to the States would have been the inevitable consequence, because, upon actual experiment, the States were found utterly incompetent to the due administration of all the powers of sovereignty intrusted to their management. The reason of this incompetency was, that some of the most important powers of sovereignty inherently possessed a geographical influence beyond the geographical limits of the several States individually, and their jurisdiction could not transcend their geographical limits. Of this description of powers is the power to declare war, &c., to regulate commerce, &c., and all the other enumerated powers of the Constitution. In consequence of the conflicting systems adopted by the several States in relation to some of these powers, which were then in practical operation; particularly in the conflicting regulations of commerce, the States were getting into the most serious collisions, &c. The formidable evils necessarily growing out of the state of things required a formidable and competent remedy. The great subject for the contemplation of every reflecting mind in America was, what that remedy should be? The wise framers of our admirable Constitution, after great deliberation, conceived and executed the only practicable expedient. It consisted in separating the powers of sovereignty; in establishing a General Government, and conferring on it all the powers of sovereignty whose geographical influence was found co-extensive with the geographical limits of the United States, and reserving to the State governments respectively those powers which were of a mere local character, and which possessed no influence beyond the limits of the States respectively. And also to confer on the General Government "all the means necessary and proper" for executing its

own laws in relation to these enumerated powers, without any dependence upon requisitions from the respective State governments for this indispensable object. The idea was a grand one, and executed with an admirable simplicity, and the most consummate wisdom. Hence it appears that the great object of the framers of the Constitution was to establish a General or Federal Government, and to confer on it all the powers of sovereignty, which in their nature and character possessed an influence co-extensive with the United States, and to reserve to the previously existing State governments all the powers of sovereignty of a more local character, and whose influence did not extend beyond the geographical limits of the States respectively, and therefore could be rendered completely subservient to State jurisdiction and management. These are the means prescribed in the Constitution for effecting the ends expressed in the preamble. To the administrators of the General Government the framers of the Constitution have said: We give to you all the powers of sovereignty of a general character; and to the administrators of the State governments, they have said: We reserve to you all the powers of sovereignty of a local character. I verily believe, that if those various Governments should be administered with the wisdom with which this separation of powers was made in the body of the Constitution, the people of the United States will not be disappointed in the great and interesting objects proclaimed in its preamble. But I cannot help expressing some apprehensions, that from an incorrect understanding of the Constitution, from an unwise spirit of jealousy, a disposition to strip the Government of its necessary and proper energies, &c., the administrators of the Government may not only disappoint the just expectations of the people in this respect, but may lead to incalculable political mischiefs and disasters. This arrangement was in my judgment indispensable to the preservation of the republican principle, and all-important to the dearest interests of the people of the United States. As far as the practical experiment has been carried, it has been attended with the happiest effects. I still hope for the best in its future operations; but I also hope I shall be pardoned for expressing some fears, arising from various manifestations of imbecility in measures relating to our internal as well as external concerns. From this short history of the origin of the Constitution, and the causes which produced it, it evidently appears, that the General or Federal Government is in its nature and character a Government of enumerated powers, taken from previously existing State governments, enumerated and conferred on it, reserving all unenumerated powers to the State governments, or to the people in their individual capacities. But if any doubts had existed upon this subject, two amendments to the Constitution, growing out of some jealousies lest a contrary interpretation should be given to the Constitution, have been adopted, which ought to put this question to rest forever. The 9th and

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10th articles of amendments to the Constitution are as follow :

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Now, sir, can language be more explicit than this, in declaring that this charter contains certain enumerated powers, and that all not enumerated are reserved to the States or to the people? There is one article reserving rights to the people, and afterwards another article reserving them to the States and to the people. While on this subject, I beg leave to read a clause in the Constitution, which I find among the enumerated powers, and which has been construed by some, as intended to convey a general grant of powers among the enumerated powers. "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." The words "and to provide for the common defence and general welfare," have by some been considered as conveying a general grant of power. Nothing is necessary to show that this is not a fair and correct construction of the Constitution, but reading it with attention. These terms contain no grant of power whatever, but are used to express the ends or objects for which particular grants of power were given. Paying the debts and providing for the common defence and general welfare are great objects, intimately connected with the particular grants of power which are given for their effectuation; and without these particular grants of power, it would not have been possible for Congress to effect them. The framers of the Constitution have simply selected some of the objects expressed in the preamble, and declared that to effect them, and to pay the debts of the United States, were the considerations which induced them to give to Congress the "power to lay and collect taxes," &c. Thus taxes are to be laid, &c. "to pay the debts, and to provide for the common defence and general welfare." Could they have chosen a more appropriate phraseology? The plain language to Congress is: "You shall have power to lay and collect taxes, to pay the debts," &c., and to provide for the common defence and general welfare, or, in other words, for the purpose of paying the debts, &c., and of providing for the common defence and general welfare. These words do not contain a general grant of powers, but express the objects of a particular grant of powers. The framers of the Constitution could not have done an act so absurd as to make a general grant of powers, among an enumeration of specified powers.

I will now, Mr. President, proceed to examine those instances which the gentleman has presented of the supposed aberrations of the Congress of the United States from the enumerated powers, and I think it will not be difficult to

show that there is not a single instance quoted, but which is deducible from a fair and correct interpretation of the express words of the Constitution, giving them their common and appropriate meaning.

The first instance presented to our consideration by the honorable gentleman from Georgia (Mr. CRAWFORD) of the exercise of a power by Congress not enumerated in the Constitution, was the erection of light-houses. The gentleman from Massachusetts, (Mr. LLOYD,) to whose dispassionate observations I listened with great pleasure, superadded the instance of the erection of custom-houses. On these, both of the gentlemen seemed to place great reliance, as cases in point with the one under consideration. Both these powers I conceive are given to Congress by the express words of the Constitution; but if I should be mistaken in this idea, they are certainly comprehended as incidental and subservient to, or in other words, "necessary and proper" for carrying into effect some of the enumerated powers.

The express words of the Constitution give to Congress the power "to lay and collect taxes, duties, imposts, and excises," &c.; "to regulate commerce with foreign nations among the several States, and with the Indian tribes;" "to exercise exclusive legislation in all cases whatever, &c., over all places purchased by consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." From these clauses of the Constitution, taken in connexion with each other, I think Congress possesses the power to erect light-houses and custom-houses by the express words of the Constitution; for both of these descriptions of houses must necessarily be included within the term "needful buildings," or the only construction which is at all applicable to these cases is, that needful buildings is the general term, and light-houses and custom-houses are particular instances or examples under the general term; or, if I may be so allowed to express my ideas, needful buildings may be considered as the genus, of which light-houses and custom-houses are particular species. The reason with the framers of the Constitution for using this general term is obvious. It was, because it was impossible for them to foresee all the particular species of needful buildings, which might become necessary to the salutary operations of this Government in the course of its complicated and due administration; they therefore wisely left that subject to the discussion of Congress, restrained and limited, nevertheless, by the requisition of the consent of the Legislatures of the States respectively, in every case proposed for the exercise of this discretion. That this is a plain and correct interpretation of the Constitution is evinced by the concurrent opinions of every Legislature of every State, which has heretofore ceded lands for any of these objects; and it is to be remarked, that Congress has never attempted to erect any of these buildings without the Constitutional requisition of the consent



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of the States respectively. But if this term "needful buildings" had not been expressed in the Constitution, I should not hesitate to admit with these gentlemen that the erection of light-houses and custom-houses might properly be deduced from the power to lay and collect taxes, duties, &c., which are particular grants of power enumerated in the Constitution. Because custom-houses are appropriately necessary to the collection of duties, and have always been deemed indispensable for that object, as are light-houses to the due regulation of commerce.

These two powers are indispensably connected with, and subservient to, particular enumerated powers, and are therefore among the means which are necessary and proper for their effectuation; and as such are given to Congress by the express words of the Constitution, which are: Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." From this course of interpretation, the gentlemen, reasoning from a supposed analogy, have asked, if Congress can derive the right to erect light-houses and custom-houses from their necessary agency in effectuating the particular powers to which they are said to be appendant or appurtenant, why may it not in the same way derive the right of granting charters of incorporation for the same objects? Or, in other words, if Congress can constitutionally erect custom-houses for the purpose, or as the necessary means of collecting duties; why may it not establish a bank for the same object, &c.? The question is admitted to be a fair one; and if a clear distinction cannot be made in the two cases, it will be admitted either that Congress may constitutionally establish a bank, or that it has heretofore transcended its powers in erecting custom-houses, &c. A clear and most obvious distinction appears to me to exist in the cases suggested by the gentlemen to be analogous, arising from the striking difference in the nature and essential character of these powers. A custom-house is in its nature incidental and subservient to the collection of duties. It is one of the common, necessary, and proper means to effect that end. It is believed that in no commercial country in the world are duties collected without them. Besides, the erection of custom-houses does not involve in it the exercise of any other higher or consequential powers. The same remarks will apply to light-houses, as among the common, necessary, and proper means for the regulation of commerce, &c.

Is the incorporation of a bank of this character? It is not among the common, necessary, and proper means of effecting either of the foregoing enumerated powers, nor of any other enumerated in the Constitution; still less is it incidental or subservient to any of the enumerated powers. It wants that connexion, affiliation, and subserviency, to some enumerated power, which are clearly pointed out in relation to the two pow-

ers, to which it has been said to be analogous. Besides, does granting a charter of incorporation to a bank involve no other higher or consequential power than merely erecting a needful building for collecting duties, &c.? It certainly does. It involves the power to grant charters of incorporation generally; and in this respect, principally, its character is essentially different from both of the powers cited by the gentleman. The power to grant charters of incorporation is not an incidental, subordinate, subservient power; it is a distinct, original, substantive power. It is also susceptible of the clearest definition; and not being among the enumerated powers, it seems to me that Congress can have no fair claim to its exercise in any case. If Congress had been expressly authorized to grant charters of incorporation generally, then granting a charter of incorporation to a bank would have been an instance, or among the means, of carrying into effect that enumerated power, and would have been as much connected and affiliated with it as is the erection of custom-houses with the collection of duties; but the power to grant charters of incorporation generally not being expressly given in the Constitution, no particular instance involving the exercise of that power can be inferred by a fair and candid interpretation of the instrument. I do not mean to exaggerate the consequences which might result from an assumption of the power to grant charters of incorporation, &c. It is sufficient for me to say that it is a power of primary importance; that it involves as many incidental powers in its exercise as any one of the enumerated powers; that it is equal, if not paramount, to any; and, therefore, in my judgment, cannot be assumed by fair construction as incidental and subservient to any; and, of course, not as among the necessary and proper means for carrying any into effect. In fact, in its nature it does not in the smallest degree partake of the derivative, incidental character. It is original, substantive, distinct in itself, and susceptible of the plainest definition. Hence, whilst I am willing to admit that a power, which is in its nature incidental and subservient to any enumerated power, and also among the necessary and proper means for carrying it into effect, may be exercised by Congress without the express words of the Constitution, I should be very unwilling to admit that Congress should also exercise a power neither incidental or subservient to any of the enumerated powers, nor among the necessary and proper means for carrying any into effect; still less should I be inclined to this admission, when the power thus proposed to be derived, incidentally or constructively, involves in it the exercise of almost unlimited powers. To illustrate my idea still further in this respect, I would observe, that the power to regulate descents, and to regulate the distribution of intestates, I conceive to be original, distinct, substantive powers; and, being among the powers which could in all respects be limited by the geographical boundaries of the individual States; and were therefore among the powers reserved to the man-

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agement of the States, might as easily be assumed by Congress as incidental to some one of the enumerated powers, as the assumption of the power to grant charters of incorporation, which I conceive was, for the same reason, left to the management of the States. I believe no gentleman will contend that Congress can, under any candid construction, go so far in relation to those powers; nor do I see how it can in relation to the power of granting charters of incorporation.

I have not overlooked the observation, sir, made by gentlemen to destroy the effect of this course of reasoning, to wit: that the passing every law is an act of sovereignty; that to pass a law to erect a light-house, is as much an act of sovereignty as to pass a law to lay and collect, &c., or to grant a charter to a bank, &c. In fact that there are no degrees of sovereignty. Without entering into this reasoning it will be sufficient to show its inapplicability to my argument to observe, that I have not grounded my distinctions upon any suggested difference in the degrees of sovereignty, but upon the clear and obvious difference in the nature and character of the powers upon which this sovereignty, &c., is intended to operate, &c.

The gentleman from Georgia (Mr. CRAWFORD) observed, that the clause in the Constitution, last read, "Congress shall have power to pass all laws which shall be necessary and proper," &c., had been considered by some as entirely inoperative, but that he thought it a clause of great importance, &c. In this opinion I entirely concur with the gentleman; I consider it the most important clause in the Constitution. It is in my judgment the true key for unlocking the meaning of all the other clauses. The former confederation did not possess the means necessary and proper for carrying into execution its own powers. It was dependent upon the State Legislatures for that purpose; and it was too important a difference in the organization of the present and former Government to be left to construction. It was therefore expressed, to declare the true character of the present Government, and to proclaim its sovereignty upon all the subjects of the enumerated powers. But, sir, the most important bearing of this clause appears to me to be the designation of the department, which should be the ultimate depository of all the power vested in the Government by the Constitution. Thus Congress is declared not only to have power to pass all laws which shall be necessary and proper for carrying into execution the powers particularly confided to its management, but "all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." This clause, I think, intended to settle all differences between the departments respecting the ultimate deposit of power, in which light it has been hitherto too little regarded. None of these considerations, however, can vary in the smallest degree the results I have attempted to draw against the power of Congress to resort to unenumerated, original, substantive power, general in its character and

operation, as the necessary and proper means for carrying into effect any of the enumerated powers.

This brings me to consider the observations of the gentleman (Mr. CRAWFORD) upon the fourth article of the Constitution in the following words:

"Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

"A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The gentleman observed, that this article contained no grant of power whatever; it was merely declaratory of certain principles, which ought to be left to the States to carry into effect; yet Congress had passed laws in relation to several of these subjects, &c., and, of course, transcended the limits of the Constitution, or rather had legislated upon subjects not enumerated, &c. To these observations I would reply, that I do consider these clauses as investing the Government generally with the exercise of all these powers, although the particular department intended for their exercise is not here designated; but by reading these clauses in connexion with the clause before read, it will be found that Congress is intrusted with the execution of these powers.

Congress shall have power to pass all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, &c. It is then clear that other powers were vested, and intended to be vested in Congress, besides the foregoing enumerated powers; all the powers in the fourth article, I presume, to be strictly of this description. That this is the understanding of the article is evinced by the concurrent opinions of the General and State Governments in those respects.

The difference of opinion therefore between the gentleman and myself consists in this: That the principles here declared, he thinks, ought to be executed by the State authorities, and I think they were intended to be executed by Congress; and if my interpretation be correct, then Congress has not transcended the limits of its authority.

This solution is at least satisfactory to myself. Another argument urged by the honorable gentleman (Mr. CRAWFORD) requires some attention. The gentleman considered the General and State

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Governments, taken collectively, as forming one complete sovereignty; he then referred to a clause in the Constitution, which he conceived excluded the State governments from the right to grant bank charters, and thence inferred the right in the General Government, &c. Although I have full confidence in the opinions generally expressed by that gentleman, I cannot concur with him in this mode of deriving power to the General Government. It is directly repugnant to the principles of construction I have just suggested, and therefore I cannot yield my assent to it.

The tenth section of the first article says, "no State shall enter into any treaty of alliance or confederation, grant letters of marque and reprisal, coin money, emit bills of credit," &c. The particular terms of this section selected to exclude the States from incorporating banks are these: "No State shall emit bills of credit." The gentleman supposes that a bank bill is a bill of credit, and therefore that the States cannot establish an institution to issue a bill of credit. Our ideas differ as to the meaning of the term, "bills of credit." As to the argument of the gentleman, that he who does an act by another does it by himself, it does not apply to the present case; for if we recur to the charters of incorporation, we shall find that a particular fund is fixed, and that this fund only is answerable for the redemption of the notes. The argument of the gentleman would as well apply to every common note given by one individual to another, because the States as much issue bills of credit by protecting promissory notes as by authorizing banks to issue such notes. In case of notes given by individuals, they become the property of him to whom they are payable; the drawer is responsible for the amount, and the State enforces the payment. In that case, too, the whole property of the drawer is pledged for the payment. In the case of bank bills, nothing is pledged but the sum specified in the charter. The real meaning of this clause, therefore, I understand to be to prevent the emission of bills, the payment of which is to be made by the States themselves, similar to the old Continental paper money; for that was evidently in the contemplation of the framers of the Constitution when they very wisely denied the power of issuing such bills to the States.

The gentleman from Georgia next read the first section of the third article of the Constitution. I should not take up the time of the Senate in noticing it, but that the construction which I then put upon it differs from that which he gave as an universal admission. The gentleman supposed there had been some departure from the Constitution under the following clause: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." The gentleman observes, that, at the time of the repeal of the judiciary act, it was generally admitted by the advocates of the repeal that the Supreme Court was not tangible. That was not the opinion I then expressed; and the opinion I then expressed

has, since that time, been strengthened and confirmed by further reflection. I do not know how the gentleman's argument can apply to the case under consideration, unless he meant to show that the decision in that respect made by Congress was unconstitutional. My opinion is, that it was Constitutional, and that Congress might constitutionally modify and change the Supreme Court in the most essential point; and permit me here to protest against the usual mode of construing the Constitution by analogy. Instead of examining the expressions of the Constitution itself to ascertain its meaning, we are often referred to certain principles borrowed from the British jurists. Thus we are often referred to the fundamental principle of the separation of departments, &c., the independence of judges, &c., although neither of these terms are to be found in the Constitution; and the principles, although correct in themselves as general principles, are subject in practice to material qualifications and limitations; and this is particularly the case in the Constitution. It appears to me as easy to ascertain the true meaning of the words used in the Constitution as the meaning of these or any other terms; and the error in this mode of reasoning generally arises from the misapplication of the terms to the subject in question; or, in other words, when reasoning from analogy, in recollecting the resemblances and overlooking the differences in cases supposed to be analogous. To ascertain the true meaning of the Constitution, therefore, I have always had reference to its own words, and discarded all reasoning from its analogy to anything else. By referring to the clause respecting the judicial department just read, and taking it in connexion with the clause which declares that Congress shall have power to pass all laws which shall be necessary and proper for carrying into execution all the powers, &c., "vested in any department," &c., it will appear obvious that Congress might, according to the express words of the Constitution, establish the judicial department as it has done, and from time to time alter or modify it at its discretion, &c.; and if Congress thought proper to increase or lessen the number of judges of the Supreme Court, or to increase or lessen the duties to be performed by them, I would ask, where is the Constitutional prohibition? I see none. Congress can designate the duties of the court and the compensation of the judges. They may take away the duties, and, of course, also, the compensation, and why? Because we find the service and compensation inseparably connected, and the one made the consideration of the other. Congress has a right to designate the services which the judges shall perform. And by what authority will they retain compensation after the services to be performed are taken away? It is not the name of office, nor good behaviour in it, for which compensation is constitutionally given, but for service rendered. The reason of this article in relation to the Supreme Court is very obvious. It was to obtain an uniformity of decision; and if Congress establish one Supreme Court, they perfectly satisfy

all the injunctive part of the Constitution. But I do not know how the gentleman's reference to this clause could affect the Constitutional question in the present case.

I have thus far endeavored to explain and reconcile to the Constitution those laws passed by Congress which the gentleman has considered contrary to the Constitution.

I will now proceed to some other arguments of the gentleman. He observed that the bank law had been in existence for twenty years, during which time there had been an acquiescence in the law. I concur in that opinion. I do consider that all the instances presented by the gentleman; to wit: authorizing the bank to lend money; the extension of its right of establishing branches to New Orleans in 1804; and also the act to punish counterfeiting bank paper in 1807, ought to be considered as acts of acquiescence by the Government in the constitutionality of that law.

I have given the most respectful attention to the arguments used by the opposers of the bill to account for this acquiescence, and to obviate the reasoning drawn from it by its friends; and whilst I give the gentlemen in opposition great credit for the ingenuity of the argument, I cannot concur in the reasoning upon which it is founded. I understand it to be bottomed upon the idea, that the bank was in the nature of a contract; and that under its influence, private rights became vested in individuals; and that, therefore, the Government was bound to carry it into effect, and that a refusal to have done so, or the repeal of the act would have been a violation of good faith, &c. &c. The honorable gentleman from Tennessee (Mr. ANDERSON) observed, that the Republican Administration, viewing this law in the nature of a contract, from a sacred regard to the preservation of good faith, passed these several acquiescing laws, &c. &c. The observation of the gentleman, so far as it respected the manifestations of good faith on the part of the Republicans, was certainly both just and pertinent. The Republicans have certainly fulfilled, with the most scrupulous fidelity, all the public engagements of their predecessors as well as their own; yet I do not believe that these several acquiescing laws were passed under the pressure of any obligation for the preservation of good faith.

I concur with the honorable gentleman from Georgia (Mr. CRAWFORD) in the conclusions he drew against this argument of the imperious obligation due to contracts under the influence of this law: but not precisely for the reasons he assigned for them. The gentleman observed, that it was essential in the formation of contracts that there should be parties, and a consideration. That under the bank law there was no sufficient consideration for the formation of a contract. In this I am inclined to think the gentleman is mistaken. I presume the mistake has arisen from an inattention to the circumstances under which the law was passed. Under the terms of the law, there were facilities given to the United States by the bank of very considerable value. The bonus

given was certainly a sufficient consideration to make the contract binding on the part of the United States. But I have several objections to this argument urged against the bill; in the first place, parties, and a consideration, are not only essential to the formation of a contract, but parties capable of contracting. If the bank law be unconstitutional, then it cannot, as I conceive, give a Constitutional capacity to the artificial person created by it to contract. An unconstitutional corporation has no more a Constitutional or legal capacity to contract, than a married woman or even an idiot; each equally laboring under legal disabilities. The argument, therefore, which is used to show that the bank law is unconstitutional, and at the same time gave a Constitutional capacity to an artificial person to contract, appears to me to be in the nature of a *felo de se*, it destroys itself. Hence I conclude, that if the law be unconstitutional in itself, it cannot confer on an artificial person a legal capacity to contract, and that any contract made under its influence would be void for the want of that legal capacity. In the next place, if it be urged that Congress is bound to carry into effect all contracts in which individual rights or interests are concerned; then Congress may in this way derive to itself all the powers it may want for an object, instead of getting them by the shorter route of the assumption under the terms common defence and general welfare; and in a much more exceptionable mode; because it may not only thus acquire any power whatever, but may also acquire it in perpetuity. Hence it appears to me that if gentlemen should succeed in establishing this argument, they would lose more by the admission, than they would gain by limiting the powers of Congress to the enumerations of the Constitution. In fact that argument would be rendered worse than nugatory by this admission.

But I have a third objection to this argument of the obligation of the contract, more formidable than either of the preceding. It appears to me to be an argument against a fact. I know it is so, as it respects myself. I have been present when most of these acquiescing laws have been passed, and I have no recollection of having been influenced in the votes I gave in their favor by a view of the sacred obligations due to contracts; nor do I recollect to have heard this consideration urged by any gentleman at the time of passing these several laws. In fact at the time of passing the law for punishing counterfeiting the bills of the Bank of the United States, I recollect no other consideration operating on me, than the information, that certain unprincipled individuals were counterfeiting bills in general circulation, to the great injury of the honest part of the community. I thought such conduct ought to be suppressed, and therefore voted for punishing all who should be engaged in it, without much attention to the Constitutional question respecting the bank law. I cannot without some violation to my feelings, agree to have any of my public conduct propped up by an afterthought, nor by any other considerations than those which operated

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at the time. These remarks, however, will certainly not apply to those gentlemen who voted under the suggested impressions. The general principle operating with me, was this—that all laws passed by Congress must be considered as Constitutional until they are repealed. Their unconstitutionality is a good reason, and the best reason, for their repeal; but so long as they remain in the statute book unrepealed they must be considered Constitutional, and in my judgment no tribunal on earth can question their validity; nor can I admit that they are subject to the censorial power claimed by the Judiciary. I am, therefore, disposed to admit the acquiescence in the bank law, and to give the gentlemen in favor of renewal all the advantage of the precedents quoted by them for that object, considered under all the circumstances of the case; and to what do they amount? Will they go so far as to preclude the present Congress from exercising its sound discretion upon the Constitutional question, when brought directly to its consideration? and when at the time of the several precedents quoted, it was only collaterally or incidentally considered, if considered at all? Certainly not—and if in exercising the right of reviewing the Constitution, the present Congress should be convinced that a former Congress had exceeded its limits, is it not bound by every conscientious consideration to correct the error, and to bring the laws within its wholesome provisions? It appears to me not only to be the right, but the indispensable duty of Congress to do so.

I will now proceed to animadvert upon some important observations made by two gentlemen upon the right of the Legislatures of the respective States to instruct the Senators of the United States.

Acting, as I now am, Mr. President, under the influence of instructions from the Legislature of the State I have the honor to represent, I feel myself imperiously called upon to notice some observations, which fell from the honorable gentleman (Mr. CRAWFORD,) and the honorable gentleman from Pennsylvania (Mr. LEIB,) in relation to that subject.

The gentleman from Georgia (Mr. C.) feelingly complains of the tendency of instructions from the great States, to embarrass the proceedings of this Government, by giving an undue bias to the deliberations, and restraining the free exercise of opinion in this honorable body, &c. &c. Without particularly adverting to the emphasis laid by the honorable gentleman upon the term "great States," I agree in general with the gentleman in his opinions in that respect. But, sir, in the present case, it may be observed, that the question of instructions to Senators was first moved in the State of Maryland. Now, sir, Maryland, although great in virtues and resources, is not so great in point of population and extent of territory, as to have obtained the denomination of a great State. The proposition then, however, was rejected by one vote. A similar motion, I am informed, is now depending before the Legislature of New Jersey. New Jersey, like Mary-

land, although great in virtues and resources, is not so great in point of population and extent of territory as to have obtained the denomination of a "great State." Indeed, sir, the right to instruct Senators has not been exclusively acted upon by the great States, generally so called, during the operations of this Government; but, I admit, has been more frequently resorted to by them.

The gentleman from Pennsylvania (Mr. LEIB) after having read his instructions, informed the Senate, that he represented one of the great States, which had given instructions, and that he felt himself absolutely bound by them in the vote he should give on the present question; that he considered himself the representative of the Legislature of Pennsylvania; that it was the principal and he the agent, and he was bound to carry into effect its will, &c., &c. However high may be the respect I generally entertain for the opinions of the honorable gentleman (Mr. L.) I am compelled to dissent from him in these opinions. I feel myself compelled, too, to express this dissent; lest it might be supposed, that being similarly circumstanced with that gentleman on the present question, my conduct might be influenced by similar considerations.

I do not consider myself the representative of the Legislature of Virginia, although I feel the most unbounded confidence in its wisdom and patriotism, and the highest respect for its proceedings. I consider myself the representative of the people of the United States, delegated to that character by the Legislature of Virginia. As an evidence of the correctness of this opinion, I have only to remark, that the laws which I contribute to pass, in the character of Senator, are co-extensive with the United States, and operate upon the people thereof in their individual capacities. They do not operate upon the State Legislatures in their corporate characters, except in cases where in that character they are connected with the Federal Government, or instrumental in the execution of some of its powers. Still less do they operate upon the Legislature of Virginia exclusively; of course I cannot consider myself as the representative of that Legislature exclusively, as its agent, and bound in all cases to execute its will upon this floor, &c. &c. It is not necessary, nor do I mean to question the right of the State Legislatures, so long practised upon, to instruct the Senators of the United States, chosen by them respectively; because that might produce an unmeaning and useless discussion about terms; but I mean to inquire, whether the exercise of the right imposes a Constitutional obligation on the Senator instructed, to obey; in what the real obligation to obedience consists; whether the instruction is injunctive and compulsory on him, or addressed only to his discretion; or, in other words, whether the Senator instructed has not a right to disobey? And whether such disobedience violates any moral or political obligation? I also propose to make a few observations on the operation of instructions upon the Federal Government and its proceedings. That the Senator instructed has a Constitutional and legal

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right to disobey his instructions, is most obvious to my understanding, from the single consideration, that a law passed by a vote in disobedience of instructions is as valid as a law passed by a vote in obedience to instructions. Obedience to instructions is no where commanded. Nor is disobedience of instructions any where prohibited by any written law or constitution. The act of disobedience does not subject the disobeying Senator to any punishment whatever; of course the disobedience of instructions violates no political duty, and, if the instructions be addressed only to the discretion of the Senator, his disobedience of them violates no moral obligation; provided he exercises a sound and conscientious discretion, founded upon the best reflections he is able to bestow upon the subject thus presented for consideration. I therefore conclude, if the State Legislatures possess the right to instruct Senators of the United States, chosen by them respectively, it is an incomplete right, without a remedy, or with a very remote one. The influence, or the true obligation of instructions, therefore, arises from the expression\* of opinion by the State Legislatures; and the very high respect which is at all times due from the Senator to the expression of such opinion by the Legislature of the State he represents. A respect which I feel so strongly,

\*It is presumed that this was the sense in which the Legislature of Virginia viewed this subject in 1800. In the memorable instructions of that day, the Legislature prefaces them with a declaration to the Senators of the United States, that they deem it important 'to express their opinions,' upon the subject of instructions. Then follows a course of reasoning to convince the Senators of the propriety of the opinions thus expressed. The instructions in this case therefore were clearly addressed to the discretion of the Senators, and not considered as imposing a positive command.

In 1808, the Legislature of Virginia instructed the Senators of that State in the Congress of the United States, to use their best endeavors to obtain amendments to the Constitution of the United States, which in effect would make the Senators of the United States recallable at the pleasure of the Legislatures of the respective States. It is presumed that the Legislature did not consider its instructions mandatory, and that the instructed Senator was bound to obey, or, in other words, had no right to disobey. Because if the Senator was bound to obey the instructions of the Legislature, it might instruct him to resign, upon the same principle which would authorize instructions how to vote, and if the instructions be mandatory, the instructed Senator would be bound to resign as well as vote conformably thereto—of course such an amendment to the Constitution would be unnecessary. The Senators from Virginia, with the most respectful attention to the opinion expressed by the Virginia Legislature, in the most respectful terms presented the instruction to the consideration of the Senate; but never thought themselves bound to use their best endeavors to obtain the amendment to the Constitution, as they were instructed to do. The Legislature, however, forwarded the proposed amendment to the other State Legislatures for concurrence; and as far as information is yet received, the proposition has been unanimously disapproved by every State Legislature which has acted upon it.

that I never would depart from an opinion thus expressed, unless in a clear and indisputable case; but the point I contend for is not injunctive, compulsory, or mandatory. That it is not in the nature of a command, but addressed to the discretion of the Senator instructed; taking into due consideration all the circumstances of the case connected with such instructions.

It may be said that the Senator is responsible to the Legislature, which appoints him at the expiration of his term of service; this is true, if applied to the individuals who may compose the Legislature at that time; but it does not vary my conclusion; because every act that he performs, whether instructed or not, is an act of responsibility; and the most which can be inferred from this idea, is, that it increases his responsibility, and would naturally produce caution; but cannot affect his right to disobey.

It cannot escape attention, that I purposely avoid all observations upon the rights of the people, as the legitimate source of all power, in their highest sovereign capacities, and upon whom all laws passed by their Representatives operate in their individual characters, to instruct all their Representatives, which I presume, if practicable, would not be denied by any; because such a discussion would be unnecessary upon the present question. The inquiry I am making respects the right of one set of Representatives of the people, chosen for certain purposes, to give mandatory instructions to another set of Representatives of the people chosen for other purposes, without any written law to that effect, and by the mere force of implication. If it should be contended that the Senators of the United States are the Representatives of the Legislatures of the respective States, and not the Representatives of the people of the United States in their individual characters, contrary to the express provisions of the Constitution, then this absurd conclusion would follow; that the people of the United States are governed by laws, not passed by their Representatives, but by the Representatives of their State Legislatures, in their corporate characters, contrary to the fundamental principles of all Republican Governments, and directly opposite to the universal expectations of the whole American people.

But, sir, let us resort to the Constitution itself, and see the actual relations which do there exist between the Legislatures of the respective States, and the Senators of the respective States, composing the Senate of the United States.

In the third section of the first article of the Constitution are these words: "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years, and each Senator shall have one vote." In another place, are these words: "And if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." These clauses of the Constitution

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present all the relations between the Legislatures and Executives of the respective States, and the Senators of the United States; and in what do they consist? Certainly in nothing but in choosing the Senators; when that is done, all the functions of the Legislature and Executive are at an end *quo ad* that particular subject. I see no influence given either over the votes or the acts of the Senator during the six years for which he is elected. During that period, the Senator is intrusted with the execution of all the powers and authorities conferred upon him by the Constitution, at his own discretion, subject only to his Constitutional responsibility at the expiration of his term of service. But it may be said, that the right to instruct arises from the necessary connexion between the constituent and the Representative. To this it may be replied, that this upon the general principle is a constructive or an implied right; but I doubt its application, at least in its full force, to this particular case. The relations in this case between the constituent and the Representative are expressly prescribed by the Constitution; neither of them can claim any original or native rights; and no construction nor implication ought to be inferred against its provisions, nor inconsistent with its obvious meaning. Besides, if this mere implication be the only foundation of the right of the State Legislatures to instruct Senators of the United States, it would equally apply to the State executives, when from adventitious causes they exercise the right of appointment; a right I believe not generally admitted, even by the State Legislatures; especially in the sense contended for, that the instruction is mandatory and conclusive. Will it not also apply to the connexion between electors and the President of the United States? I find, by the second article of the Constitution, that the President of the United States is to be chosen by electors appointed by the several States, and they of course become the immediate constituents of the President. But what would be thought of their inferring a right from this connexion to instruct the President of the United States in what manner to execute the powers and duties of his office? And what would be the probability of a concurrence in such instructions from the different electors of the several States? The President's responsibility is tested at the expiration of every four years; that of a Senator at the expiration of every six years; and I believe that the changes of the individual electors in the several States are not greater at the expiration of every four years, than are the changes in the individuals composing the State Legislatures at the expiration of every six years. The responsibility of the President of the United States, therefore, may be considered as great or greater, to his electors, than the responsibility of the Senators of the United States to the respective State Legislatures: for I contend the responsibility of the Senator is not to the State Legislature in its corporate character, but to the individuals who may happen to compose the State Legislature at the time of his election, in their individual capacities,

described only by the corporate term. It is believed that a pretension of this kind by the electors of the President of the United States would not be tolerated even by the State Legislatures. But is there nothing expressly contained in the Constitution of the United States which would afford a stronger implication against the exercise of this right by the State Legislatures, than the implication from which the right is said to be derived?

I think, sir, that the very first words of the Constitution, after the preamble, afford strong evidence of the exclusion of the right of the State Legislatures to give mandatory instructions to the Senators of the State. They are the following: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Now, sir, upon the principle of mandatory instructions from the State Legislatures to the Senators of the United States, will Congress exercise all the legislative powers granted by the Constitution? Will not the State Legislatures essentially participate in the exercise of the legislative powers? If they can command and direct the votes of one distinct and essential branch of Congress upon all legislative subjects, will it not be a material participation in the legislative powers granted exclusively to Congress? Could they not thus embarrass the whole proceedings of Congress? Could they not render all deliberations on the part of the Senate unnecessary? Could they not thus deprive the Government itself of all energy and efficiency? Surely the wise framers of the Constitution could never have anticipated, still less could they have sanctioned, the assertion of such principles!

These considerations bring me to examine the tendency of the principle contended for upon the character and proceedings of the General Government; and, sir, had it not been for the opinions I entertain on this question, I should not have given the other the critical examination I have attempted; but, sir, such is my opinion of the injurious effects of the practice of giving instructions by the Legislatures of the States to the Senators of the United States, that I deem it my indispensable duty to give the subject a full and candid investigation; although in doing so, I know I shall have to encounter strong and honorable and perhaps insuperable prepossessions against my opinions; particularly in the State I have the honor to represent. I wish it to be understood, however, sir, that in the discharge of my duties on this floor, I shall always obey the honest dictates of my own judgment; and whenever I see, or think I see, danger of any kind threatening the due administration of this Government, I will at all times endeavor to expose it to the view of the people, and particularly of those from whom the unintentional danger is apprehended; regardless of any consequences to myself upon the political theatre. The best mode of appreciating the tendency of mandatory instructions upon the proceedings of the Federal Government, will be to bring to our recollection

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the great points of difference between the present Government and former confederation.

Under the former confederation, the States voted in their corporate characters; and if the Representatives of any one of them were equally divided in opinion, the State gave no vote. Under the present Government, each Representative votes in his individual character, and upon his individual responsibility. The words of the Constitution are "and each Senator shall have one vote." Under the former confederation, the requisitions of Congress operated upon the States in their corporate characters. Under the present Government, the laws of Congress operate upon the people of the United States in their individual characters.

The former Congress did not possess the means necessary and proper for executing its own will upon the subjects confided to its deliberations. The present Congress possesses power to carry into effect its own will or its laws, upon all subjects confided to its management. These are among the great points of difference in the character and powers of the two Governments. The former Government fell to pieces from the feebleness of its organization, and principally from the want of power to execute its own will, from its dependence upon the State Legislatures for the execution of its requisitions.

Now, sir, if the State Legislatures possess the right to give mandatory instructions to their Senators respectively, I see very little difference in the character of the present and former confederation; for there can be very little difference in the practical effect of the principle of requisitions by Congress upon the State Legislatures, which may be rejected at their discretion, and the principle of the State Legislatures making requisitions by mandatory instructions upon one essential branch of Congress; which must be obeyed by that branch in exclusion of all discretion whatever. The feebleness and incongruity of the latter principle is, in my opinion, at least equal to the first, and if admitted and indulged in, will as certainly terminate in the ruin and dissolution of the Government. Another injurious tendency of mandatory instructions, is, to add to the locality of feelings and opinions in the deliberations of this honorable body, already too strong by native and habitual prepossessions and predilections. Another injurious tendency of mandatory instructions results from their influence in restraining the free exercise of opinion in the deliberations of this honorable body: and if generally practised upon would render all deliberations unnecessary. The incongruity of mandatory instructions to the operations of this Government will appear more obvious, by reflecting, that, if the same measure were to be concurred in and required by every State Legislature in the Union, and their Senators peremptorily instructed to effect it, without exercising any discretion of their own, it is probable that such would be the difference in the mode or detail of the instructions from the respective State Legislatures, as to put it out of the power of the Senate to effect their object; the

Senators from each State being bound to pursue the mode pointed out to them by the Legislature of the State they respectively represent. Indeed such is my opinion of the tendency of the principle of mandatory instructions, that I should regret very much to see it established and frequently resorted to. The practice, in my opinion, would eventuate in producing feebleness and inefficiency in the General Government; collision among the several States; and finally disunion and dissolution of the General Government.

Sir, I now am, and always have been, attached to an efficient Government—a Government strong enough to repel external violence, and to insure domestic tranquillity, and to secure the person and property of the individual citizens. The Federal Government I conceive to be an indispensable instrument in the effectuation of these great objects. I have often wondered at seeing gentlemen of learning, of talents, and of patriotism, rejoicing at the curtailment of its necessary powers. They seem to me to enjoy the triumph of every event of this kind, as much as if they had plucked a laurel from the brow of their most inveterate enemy and placed it round their own; not being sufficiently impressed, in my judgment, with the importance of the Federal Government to the preservation of their own personal safety, and the security of their property, &c.

The gentleman from Georgia (Mr. CRAWFORD) was pleased to say, that in giving instructions to the Senators upon this occasion, the great States had been influenced solely by motives of avarice. I regret the remark; and I think, if the gentleman would dispassionately reconsider it, he would also regret it. I think he would admit, that the Legislature of Virginia could not have acted under the influence of such a motive. And, sir, I feel a pride and a pleasure in standing here to repel the imputation, and to do justice to the real motives of the Legislature. I am at a loss to determine what are the particular circumstances which could have induced the gentleman to ascribe the motive of avarice to the Virginia Legislature on this occasion. It is true, that a branch of the Bank of the United States with the trifling capital of \$300,000 is established at Norfolk; and that a branch of the Bank of Virginia is also established there. But these circumstances furnish no possible motive of avarice to the Virginia Legislature. The amount of capital and its effects, are quite unimportant to the State. Norfolk itself, although equally respectable and important with any other portion of the State of the same extent and population, is not sufficient to excite the avarice of the Virginia Legislature. The Legislature of Virginia consists principally of agriculturists residing in the interior of the State, who concern themselves very little with banks and bank operations. They have made no calculations of pecuniary interests upon this occasion. They have acted in giving instructions from the purest and most honorable motives, from a conviction that the power of granting charters of incorporation was not conferred on Congress by the Constitution, but reserved to the States re-



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spectively. That this conviction alone was the inducement to their instructions will appear obvious from the instructions themselves, which I beg leave to read :

"The General Assembly of Virginia view with the most serious concern the late attempts which have been made to obtain from Congress a renewal of the charter incorporating the Bank of the United States.

This Assembly is deeply impressed with the conviction that the original grant of that charter was unconstitutional, that Congress have no power whatever to renew it, and that the exercise of such a power would be not only unconstitutional, but a dangerous encroachment on the sovereignty of the States. Therefore,

*Resolved*, That the Senators of this State, in the Congress of the United States, be instructed and our Representatives most earnestly requested, in the execution of their duties, as faithful representatives of their country, to use their best efforts in opposing by every means in their power the renewal of the charter of the Bank of the United States.

JANUARY 22, 1811.

Agreed to

ROBT. TAYLOR, S. S.

JAS. BARBOUR, S. H. D.

A copy from the original,

Test: JAS. PLEASANTS, C. H. D."

It manifestly appears from these instructions that a conviction of the unconstitutionality of the original bank law was the sole inducement with the Legislature for giving them; and here, sir, permit me to express a hope, that the arguments I have urged in favor of this opinion will amply justify the Legislature in the honest conviction under which it has acted. Permit me also to remark, sir, that while I cannot admit that instructions in any case possess a mandatory influence over the Senator; and while I think the practice of giving instructions in general, and upon general points of policy, is attended with injurious effects upon the proceedings of this Government, &c.—yet, in a case of rights reserved to the States, the Legislatures not only have the right, but it is their duty to express their opinions to, or instruct, their Senators (for I will not cavil about terms) to resist the usurpations of the General Government. It is the mildest way in which their agency can be brought to bear upon all such cases; and this being a case in point, the instructing Legislatures stand perfectly justifiable in the conduct they have adopted in that respect. I hope, sir, that I have rescued the Legislature of Virginia from the unmerited imputations thrown against it, inadvertently I am sure, by the gentleman from Georgia (Mr. CRAWFORD;) and have shown that it has been influenced by the purest, the most laudable and the most honorable motives, &c.

I have, sir, thus presented to the Senate the most impartial and comprehensive views, which my best reflections have enabled me to take of the Constitutional question involved in the present discussion, and of all the other topics which have been incidentally connected with it. I will now proceed to examine the subject in another point of view.

Upon the question respecting the expediency

of the renewal of the bank charter, the friends of the bill claim the whole weight of the argument; whilst some of its opposers tacitly acquiesce in, and others faintly oppose this lofty pretension. Notwithstanding these circumstances, I entertain very great doubts upon that point. There appear to me to be considerations of great weight against it; perhaps more than sufficient to counterbalance those urged in favor of it. Both the gentlemen in favor of the bill relied very much upon the suggestion, that the prosperity of the United States was attributable in a very great degree, indeed almost exclusively, to the establishment and operation of the Bank of the United States. I believe, sir, nothing is more difficult than to ascertain the true causes of the wealth and prosperity of nations; very few writers have been successful in the investigation of that intricate subject; but the adventitious establishment and operation of the Bank of the United States are amongst the last causes to which I would ascribe their rapid increase of wealth and their general and extensive prosperity. It is not to any adventitious, local causes we are to look for these universal effects. If I were to look for their real causes, I should expect to find them, in the genius and wisdom of political institutions; in permitting every citizen to employ his faculties at his own discretion, for the attainment of property; and securing to him the perfect and uncontrolled enjoyment of it when acquired. Each citizen, thus acquiring wealth and prosperity to himself, would of course accumulate the general stock, &c. These inestimable blessings have also been attended with signal and peculiar advantages, with an exemption from wars, and all other great political calamities, &c., &c., whilst that portion of the world with which we have the most extensive commercial relation has been, and still is, unhappily involved in wars almost interminable and of the most disastrous characters; from which, till latterly, our commercial fellow citizens have derived advantages almost incalculable, and of course added greatly to the general stock of wealth and prosperity, &c. To these and such like causes, permanent in their character, and universal in their operation, are properly to be ascribed the general wealth and prosperity of the nation; and not to the adventitious circumstance of the creation of a bank; still less should we rely upon this cause, when we reflect that the bank is local in its operations; whilst the scene of prosperity is universal through the United States, pervading those parts of them where the operations of the bank are scarcely known, and its influence never felt, as much as those parts immediately within the focal point of its influence, &c. This argument, therefore, I conceive has been urged by the friends of the bill, greatly beyond its real merits, and received with too much facility and effect by its opposers.

The gentleman from Georgia (Mr. CRAWFORD) upon introducing to the consideration of the Senate the report of the Secretary of the Treasury, was pleased to say, that he should rely in some degree upon that report; although he knew, that

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mentioning it would excite invidious feelings in some of the members of this body. I do not know to whom the gentleman meant to apply his allusion. I can only say for myself, that I think the report is entitled to a respectful attention—that I would give it the same respect, that I would show to a report from the head of any other department. It has always been my invariable habit, to form my opinions from the facts contained in the documents before me, regardless of the authors of them; nor could I ever condescend, in the discharge of my duty upon this floor, to permit personal considerations to intermingle with, still less bias my deliberations. But, sir, I see nothing very operative in the Secretary's report. He says in substance that he has found in practice the Bank of the United States to be a convenient instrument for facilitating the management of the fiscal concerns of the nation; which I believe is generally admitted. It is also true that the Secretary has found it convenient, and has ventured to express his opinion in favor of the constitutionality of the bank bill; and I am willing to give credit to the opinion, for what it is worth. No gentleman would say it ought to preclude the free exercise of opinion by others; and I acknowledge, upon this particular subject, I am not inclined to give it the weight to which that gentleman's opinions would be entitled upon other occasions; because he has uniformly manifested too much zeal for the success of this bill, to leave the mind perfectly free in the investigation. He has for a long time used such various and incessant means to effect the renewal, that his mind must be in some degree divested of that coolness and impartiality which are indispensable to a critical and correct analysis of the Constitution.

The gentleman from Georgia (Mr. CRAWFORD) observed, that it was better to have a bank dependant on the United States, than to increase the dependence of the government upon the State banks, over which the Government of the United States cannot exercise any control. I would submit to the honorable gentleman, upon further reflection, to say, whether the remark is applicable to the bill under consideration. After the charter is once granted, I see no control reserved to the Government. I fear the controlling influence would be on the other side. If, however, there must be an United States' Bank, I would prefer one of that character to the present project. I have too much confidence in Congress to be alarmed at the influence of a bank under its direction; and should greatly prefer it to one whose direction should be under the influence of British capitalists.

The honorable gentleman from Massachusetts, (Mr. LLOYD,) to whose dispassionate, enlightened, and dignified observations I listened with great pleasure, informed us, that there was a capital of fifty millions of bank paper in circulation in the United States, and the specie circulation for its support did not exceed ten millions—and that was daily diminishing. If this be the true state of the circulating medium, I think the extension

of bank paper circulation already too great; and it would not be surprising to me, if a knowledge of this fact alone should lessen its credit. Its excess has certainly become an evil, and instead of being still further extended, ought to be curtailed. But the most objectionable circumstance to this excess of circulation of bank paper, I conceive to be its inevitable tendency to exclude the specie circulation, which it substitutes. A specie circulation is certainly greatly preferable to paper circulation; it has an intrinsic value in itself, whereas the paper circulation has no intrinsic value, and its currency depends upon the value of the specie circulation which it represents. Of course a circulation of value is excluded from the country, and substituted by one of no value; and in times of war or other great political calamities, when the Government would stand most in need of the aid of banks for its support, their capacity to lend would be the most diminished, if not entirely destroyed, by the absence of specie capital, which the circulation of bank paper has banished from the country. I presume the gentleman would not consider the banishment of a circulation of intrinsic value, and substituting it with one of a representative value only, amongst the prosperous effects resulting from the operation of the Bank of the United States.

The gentleman from Massachusetts (Mr. LLOYD) favored the Senate with the perusal of his notes of the evidence of the democratic merchants and manufacturers of Philadelphia. I paid great attention to this information, derived from practical men, and should be sorry to misconceive it; and certainly could not disrespect it. But there were two facts, stated and assented to by all of them, which seem to me irreconcilable with the opinions expressed by those gentlemen, respecting the real causes of the present scarcity of money, and the distresses consequent upon that scarcity. The first fact was, that the bank in Philadelphia discounted precisely as much now, and proposed to do so till the 4th of March, as it heretofore had done. The other fact was, that the paper had not depreciated, but was still in good credit. The complaint was not that the paper, when obtained, was not of good credit, and would not answer their purposes; but that they could not obtain it. Now, sir, I cannot conceive how the scarcity of money, and consequent distress, can arise from any apprehension of putting down the bank, when precisely the same sum of money is now put into circulation by it as was formerly done, and the money itself in good credit. The pecuniary distresses complained of, in my judgment, are not properly attributable to these causes, but to some others more inscrutable, and which have escaped the observations of those gentlemen. Perhaps they may more justly be ascribed, in some instances, to the general embarrassment of the commercial world at present—particularly the embarrassments of American commerce at the present moment, and perhaps, in some instances, to some unknown embarrassments and difficulties in the particular occupations of the complaining indi-

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viduals. There is another fact to show that the alarm at present is greatly exaggerated, or is certainly greatly beyond any real cause for it. It will appear from the Secretary's report, that the debts due to the Bank of the United States are only \$600,000 less than they were twelve months ago; of course the discounts of the whole institution could only be lessened to that extent, and it is impossible for me to believe that the payment of that trivial sum, compared with the whole mercantile capital of the United States, could be seriously felt by the merchants generally; especially as they have been twelve whole months in paying it. If the payment of that sum in twelve months could produce all the distresses we hear of, I hope we shall hear no more of our immense mercantile wealth, and the great extension of our mercantile capital. Yet this is the only real cause for all the clamor and alarm circulating through the country. I think, with some confidence, that the consequences of putting down the Bank of the United States must be artificially exaggerated, or very much misapprehended; and this opinion is grounded upon the consideration that it is directly repugnant to the interest of the bank to cause the apprehended distresses, and its directors certainly have the power to avoid the production of them. And I think that when a calculation is made, and a conclusion drawn upon the idea that a moneyed institution will pursue its own interest, it may fairly be said to be grounded on a solid consideration. I cannot see how putting down this institution can materially affect the pecuniary abilities of the nation; its actual funds for discounting will be nearly the same; the position of them only will be changed; they will find their way into the State banks, and their ability to discount will be increased proportionably to the increase of their deposits. Nor am I at all alarmed at the suggestion, that eleven millions of dollars will be drawn out of the country by the British capitalists, because it will not be their interest to do so. Their dollars are worth more here than in Great Britain. If drawn there, they would soon be melted down into their depreciated paper circulation. They might also draw bills to advantage, so that I doubt whether an additional dollar will be shipped from the country, in consequence of the rejection of this bill. Certainly they will not in any great extent.

I will now, Mr. President, suggest a few considerations, which I acknowledge have great influence on my mind in deciding on the expediency of the proposed renewal of the charter of the Bank of the United States. I do it with great diffidence, because I have not yet heard them suggested by any other gentleman; at least not precisely as they affect my mind. I will, however, present them to the Senate, and do not wish them to be appreciated beyond what they are worth. In the incorporation of a bank upon the principles now proposed, the great advantage to the stockholders consists in legalizing their credit, and authorizing them to draw an interest on it, as well as on their money. Individuals

can obtain interest only on a loan of money—the bank is authorized to obtain interest on a loan of credit, and that interest, according to the reported dividends of the Bank of the United States, has been eight per cent. per annum; and it is probable it will continue quite as high. This advantage is not confined to the credit arising from the money owned by the stockholders; but also that which arises from the deposits of money belonging to other people—nor is this all; it extends to the credit which arises from the enormous deposits of public money. It appears from the Secretary's report, that seven tenths of the whole stock are held by British capitalists; perhaps the proportion is greater, but covered in some instances by American names. It also appears, that they will have enjoyed the full term of these incorporated advantages on the 4th of March next; of course, a refusal to renew them cannot in any respect be considered as a departure from good faith. Now I can see neither the policy nor expediency of extending these favors and advantages voluntarily to these foreigners for twenty years in exclusion of our own citizens; at least to the extent of the foreign capital now invested in the institution. I think, sir, at the same time, I can see very strong and peculiar grounds of objection to the policy and expediency of this measure. My objection arises from the enormous British influence, which notoriously pervades this country; and, I believe, affects the proceedings of Government, so seriously, that it can hardly be said to be independent. I verily believe, that this baneful influence has already driven the Government from measures which the best interest of the nation required.

Whilst we find Great Britain claiming exclusive dominion on the ocean, possessed of an immense mercantile capital and pecuniary resources almost inexhaustible, we find many of her subjects intimately connected with our citizens in commercial pursuits. We find many mercantile houses in that country associated with mercantile houses in this, so much so, that when we hear of great failures in Liverpool, we may look out for squalls and breakers at New York. Not only has this influence operated on the people generally, but I state it as my firm conviction that it has operated and now operates on the Government of the United States. Is this mercantile connexion the only source of influence? Not at all, sir; the influence accruing to Great Britain from the identity of language, from reading British books, from the precedents derived from her systems of jurisprudence, inculcated in early life—from intermarriages, and various other circumstances, paralyzes the efforts of our country, and almost reduces it to a state of colonial dependence; I consider this bank as giving that diversified influence a body and form for action. Have we not been told that this bank has been so operative, as to elevate or depress the State banks at pleasure? As to enlarge or contract the circulating medium? And is it desirable that such an engine should exist

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in the hands of foreigners? Take away this influence, and Great Britain would stand nearly on the same footing in relation to us, that any other nation does. I have not overlooked the observations of the gentleman from Georgia, in relation to this subject. He observed, if there be any influence, it is reciprocal; that these foreigners, having funds in the United States' Bank, will use their best exertions to procure a respect for our rights, or to keep the two nations at peace. I believe they will; but whilst they may have an influence in this country, they will have none in their own. The influence of seven millions of dollars will not be felt in that country, where three hundred millions are annually expended; although it will have much weight here. There is then no reciprocation of influence, as the gentleman supposes. I would ask the gentleman, how this influence has been heretofore exerted in practice upon the two Governments? Has it been able to induce Great Britain to relax in her hostility against us in the smallest degree? Has it prevented, or repealed the Orders in Council, &c.? Has it saved from impressment one American seamen? Did it prevent the attack upon the Chesapeake? In short, has it restrained the hostile arm of Great Britain from any hostile act, &c.? On the other hand, how has it acted on our Government? Has it not been instrumental in paralyzing every effort of resisting these hostilities? Has it not cooled us down to a state of humble submission, &c.? These are its natural practical effects, and will continue to be so. I am very far from wishing to interrupt the harmony and friendship between the United States and Great Britain, provided they can be preserved on honorable terms, but not by submission brought about by British influence. I find I have trespassed too long on the indulgence of the Senate; but I beg to be permitted to reply to two observations, one of which has been much relied on; and I will pass over all others.

It has been asked by one gentleman whether this was a very propitious time for putting an end to this establishment. I admit that it is not; that very serious embarrassments attend our commercial operations. The sequestrations of France, the British Orders in Council, as well as the interruptions from other countries, must have had a very serious effect on our commerce. I regret that this measure is called for, at so inauspicious a time. I am willing to admit that if we enforce the non-intercourse the pressure will not be lessened. But are these circumstances so inauspicious, as to warrant us in passing over solemn Constitutional objections? Are they such as to warrant us in still further increasing British influence in the nation? These are serious considerations; and, in my judgment, furnish strong grounds of objection to the policy and expediency of the proposed renewal of the bank charter. Gentlemen may speak of the impartiality of the bank as they please; but it is notorious that it has always been hostile to all measures directed against England, and against the Administration generally; evinced in the choice of direc-

tors, &c. The gentleman from Georgia (Mr. CRAWFORD) feelingly complained, that this had artificially been made a party question by the course adopted in its discussion. I fear the remark is too true; that this discussion partakes too much of that character. I have endeavored to exclude every idea of that nature from the observations just made. I always regret to see any question, in discussion before this honorable body, assume the character of parties. It is always unwise in the party in power artificially to create party questions. It reminds me of the silly boatswain, who, not content to sail easily along before a pleasant breeze, puts up his whistle for a storm, which, when it arrives, upsets his vessel, and sends her to the bottom. It is our duty to examine every question solely on the ground of right and wrong. In this country that party will keep longest in possession of power, which shall do right and administer justice regardless of all other considerations. I hope all my efforts have heretofore tended to produce these ends. It has been at all times my object to search out right, and vigilantly to pursue it, regardless of incidental consequences. Influenced solely by these considerations, I have endeavored to give this subject the most impartial investigation. I have done so with the most respectful attention to the motives and reasonings of other gentlemen. I know that I stand much in need of the same liberality and indulgence myself, which, I hope and doubt not, I shall receive in return.

When Mr. GILES had concluded, the Senate adjourned.

## FRIDAY, February 15.

The Senate proceeded to consider their amendments to the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl river," disagreed to by the House of Representatives; and, after progress, the further consideration thereof was postponed until to-morrow.

The two bills brought up yesterday for concurrence were read, and passed to the second reading.

On motion, by Mr. ANDERSON, the Senate resumed, as in Committee of the Whole, the bill for the relief of David Porter, a commander in the Navy of the United States; and, on motion, it was agreed that the consideration thereof be postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation; and the bill having been amended, the President reported it to the House accordingly. On the question, Shall this bill be now engrossed and read a third time as amended? it was determined in the affirmative.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

Mr. CLAY.—Mr. President: When the subject involved in the motion now under consideration was depending before the other branch of the Legislature, a disposition to acquiesce in their decision was evinced. For although the committee who reported this bill had been raised many weeks prior to the determination of that House on the proposition to re-charter the bank, except the occasional reference to it of memorials and petitions, we scarcely ever heard of it. The rejection, it is true, of a measure brought before either branch of Congress, does not absolutely preclude the other from taking up the same proposition; but the economy of our time, and a just deference for the opinion of others, would seem to recommend a delicate and cautious exercise of this power. As this subject, at the memorable period when the charter was granted, called forth the best talents of the nation—as it has, on various occasions, undergone the most thorough investigation, and as we can hardly expect that it is susceptible of receiving any further elucidation, it was to have been hoped that we should have been spared an useless debate. This was the more desirable because there are, I conceive, much superior claims upon us for every hour of the small portion of the session yet remaining to us. Under the operation of these motives, I had resolved to give a silent vote, until I felt myself bound, by the defying manner of the arguments advanced in support of the renewal, to obey the paramount duties I owe my country and its constitution; to make one effort, however feeble, to avert the passage of what appears to me a most unjustifiable law. After my honorable friend from Virginia (Mr. GILES) had instructed and amused us with the very able and ingenious argument which he delivered on yesterday, I should have still forborne to trespass on the Senate, but for the extraordinary character of his speech. He discussed both sides of the question, with great ability and eloquence, and certainly demonstrated to the satisfaction of all who heard him, both that it was Constitutional and unconstitutional, highly proper and improper to prolong the charter of the bank. The honorable gentleman appeared to me in the predicament in which the celebrated orator of Virginia, Patrick Henry, is said to have been once placed. Engaged in a most extensive and lucrative practice of the law, he mistook in one instance the side of the cause on which he was retained, and addressed the court and jury in a very splendid and convincing speech in behalf of his antagonist. His distracted client came up to him whilst he was progressing, and interrupting him, bitterly exclaimed, "you have undone me! you have ruined me!"—"Never mind, give yourself no concern," said the adroit advocate; and turning to the court and jury, continued his argument by observing, "May it please your hon-

ors, and you, gentlemen of the jury, I have been stating to you what I presume my adversary may urge on his side. I will now show you how fallacious his reasoning and groundless his pretensions are." The skilful orator proceeded, satisfactorily refuted every argument he had advanced, and gained his cause! A success with which I trust the exertion of my honorable friend will on this occasion be crowned.

It has been said by the honorable gentleman from Georgia (Mr. CRAWFORD) that this has been made a party question, although the law incorporating the bank was passed prior to the formation of parties, and when Congress was not biassed by party prejudices. [Mr. CRAWFORD explained. He did not mean that it had been made a party question in the Senate. His allusion was elsewhere.] I do not think it altogether fair to refer to the discussions in the House of Representatives, as gentlemen belonging to that body have no opportunity of defending themselves here. It is true that this law was not the effect, but it is no less true that it was one of the causes of the political divisions of this country. And if, during the agitation of the present question, the renewal has, on one side, been opposed on party principles, let me ask if, on the other, it has not been advocated on similar principles? Where is the Macedonian phalanx, the opposition in Congress? I believe, sir, I shall not incur the charge of presumptuous prophecy, when I predict that we shall not pick up from its ranks one single straggler! And if, on this occasion, my worthy friend from Georgia has gone over into the camp of the enemy, is it kind in him to look back upon his former friends, and rebuke them for the fidelity with which they adhere to their old principles?

I shall not stop to examine how far a representative is bound by the instructions of his constituents. This is a question between the giver and receiver of the instructions. But I must be permitted to express my surprise at the pointed difference which has been made between the opinions and instructions of State Legislatures, and the opinions and details of the deputations with which we have been surrounded from Philadelphia. Whilst the resolutions of those Legislatures—known, legitimate, Constitutional and deliberative bodies—have been thrown into the back ground, and their interference regarded as officious, these delegations from self-created societies, composed of whom nobody knows, have been received by the committee with the utmost complaisance. Their communications have been treasured up with the greatest diligence. Never did the Delphic priests collect with more holy care the frantic expressions of the agitated Pythia, or expound them with more solemnity to the astonished Grecians, than has the Committee gathered the opinions and testimony of these deputies, and through the gentleman from Massachusetts, pompously detailed them to the Senate! Philadelphia has her immediate representatives, capable of expressing her wishes upon the floor of the other House. If it be improper for States to obtrude upon Con-

gress their sentiments, it is much more highly so for the unauthorized deputies of fortuitous congregations.

The first singular feature that attracts attention in this bill is the new and unconstitutional veto which it establishes. The Constitution has required only, that after bills have passed the House of Representatives and the Senate, they shall be presented to the President for his approval or rejection, and his determination is to be made known in ten days. But this bill provides, that when all the Constitutional sanctions are obtained, and when according to the usual routine of legislation it ought to be considered as a law, it is to be submitted to a new branch of the Legislature, consisting of the President and twenty-four Directors of the Bank of the United States, holding their sessions in Philadelphia, and if they please to approve it, why then it is to become a law! And three months (the term allowed by our law of May last, to one of the great belligerents for revoking his edicts, after the other shall have repealed his) are granted them to decide whether an act of Congress shall be the law of the land or not! An act which is said to be indispensably necessary to our salvation, and without the passage of which, universal distress and bankruptcy are to pervade the country. Remember, sir, that the honorable gentleman from Georgia has contended that this charter is no contract. Does it, then, become the representatives of the nation to leave the nation at the mercy of a corporation? Ought the impending calamities to be left to the hazard of a contingent remedy?

This vagrant power to erect a bank, after having wandered throughout the whole Constitution in quest of some congenial spot whereupon to fasten, has been at length located by the gentleman from Georgia on that provision, which authorizes Congress to lay and collect taxes, &c. In 1791, the power is referred to one part of the instrument; in 1811, to another. Sometimes it is alleged to be deducible from the power to regulate commerce. Hard pressed here, it disappears, and shows itself under the grant to coin money. The sagacious Secretary of the Treasury in 1791 pursued the wisest course—he has taken shelter behind general, high sounding, and imposing terms. He has declared, in the preamble to the act establishing the bank, that it will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, and will be productive of considerable advantage to trade and industry in general. No allusion is made to the collection of taxes. What is the nature of this Government? It is emphatically federal, vested with an aggregate of specified powers for general purposes, conceded by existing sovereignties, who have themselves retained what is not so conceded. It is said that there are cases in which it must act on implied powers. This is not controverted, but the implication must be necessary, and obviously flow from the enumerated power with which it is allied. The power to charter companies is not specified in the grant, and I contend

is of a nature not transferable by mere implication. It is one of the most exalted attributes of sovereignty. In the exercise of this gigantic power we have seen an East India Company created, which has carried dismay, desolation, and death throughout one of the largest portions of the habitable world. A company which is, in itself, a sovereignty—which has subverted empires and set up new dynasties—and has not only made war, but war against its legitimate sovereign! Under the influence of this power, we have seen arise a South Sea Company, and a Mississippi Company, that distracted and convulsed all Europe, and menaced a total overthrow of all credit and confidence, and universal bankruptcy. Is it to be imagined that a power so vast would have been left by the wisdom of the Constitution to doubtful inference? It has been alleged that there are many instances, in the Constitution, where powers, in their nature incidental, and which would have necessarily vested along with the principal power, are nevertheless expressly enumerated; and the power “to make rules and regulations for the government of the land and naval forces,” which, it is said, is incidental to the power to raise armies and provide a navy, is given as an example. What does this prove? How extremely cautious the Convention were to leave as little as possible to implication. In all cases where incidental powers are acted upon, the principal and incidental ought to be congenial with each other, and partake of a common nature. The incidental power ought to be strictly subordinate and limited to the end proposed to be attained by the specified power. In other words, under the name of accomplishing one object which is specified, the power implied ought not to be made to embrace other objects, which are not specified in the Constitution. If then you could establish a bank to collect and distribute the revenue, it ought to be expressly restricted to the purpose of such collection and distribution. It is mockery, worse than usurpation, to establish it for a lawful object, and then extend it to other objects which are not lawful. In deducing the power to create corporations, such as I have described it, from the power to collect taxes, the relation and condition of principal and incident are prostrated and destroyed. The accessory is exalted above the principal. As well might it be said that the great luminary of day is an accessory, a satellite to the humblest star that twinkles forth its feeble light in the firmament of heaven!

Suppose the Constitution had been silent as to an individual department of this Government, could you, under the power to lay and collect taxes, establish a judiciary? I presume not; but if you could derive the power by mere implication, could you vest it with any other authority than to enforce the collection of the revenue? A bank is made for the ostensible purpose of aiding in the collection of the revenue, and while it is engaged in this, the most inferior and subordinate of all its functions, it is made to diffuse itself throughout society, and to influence all the

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great operations of credit, circulation, and commerce. Like the Virginia justice, you tell the man, whose turkey had been stolen, that your book of precedents furnishes no form for his case, but then you will grant him a precept to search for a cow, and when looking for that he may possibly find his turkey! You say to this corporation, we cannot authorize you to discount—to emit paper—to regulate commerce, &c. No! Our book has no precedents of that kind. But then we can authorize you to collect the revenue, and, while occupied with that, you may do whatever else you please!

What is a corporation such as the bill contemplates? It is a splendid association of favored individuals, taken from the mass of society, and invested with exemptions and surrounded by immunities and privileges. The honorable gentleman from Massachusetts (Mr. LLOYD) has said that the original law, establishing the bank, was justly liable to the objection of vesting in that institution an exclusive privilege, the faith of the Government being pledged that no other bank should be authorized during its existence. This objection he supposes is obviated by the bill under consideration; but all corporations enjoy exclusive privileges—that is, the corporators have privileges which no others possess; and if you create fifty corporations instead of one, you have only fifty privileged bodies instead of one.

I contend that the States have the exclusive power to regulate contracts, to declare the capacities and incapacities to contract, and to provide as to the extent of responsibility of debtors to their creditors. If Congress have the power to erect an artificial body and say it shall be endowed with the attributes of an individual—if you can bestow on this object of your own creation the ability to contract, may you not, in contravention of State rights, confer upon slaves, infants, and femes covert, the ability to contract? And if you have the power to say that an association of individuals shall be responsible for their debts only in a certain limited degree, what is to prevent an extension of a similar exemption to individuals? Where is the limitation upon this power to set up corporations? You establish one, in the heart of a State, the basis of whose capital is money. You may erect others whose capital shall consist of land, slaves, and personal estate, and thus the whole property within the jurisdiction of a State might be absorbed by these political bodies. The existing bank contends that it is beyond the power of a State to tax it, and if this pretension be well founded, it is in the power of Congress, by chartering companies, to dry up the whole of the sources of State revenue. Georgia has undertaken, it is true, to levy a tax on the branch within her jurisdiction, but this law, now under a course of litigation, is considered as invalid. The United States own a great deal of land in the State of Ohio; can this Government, for the purpose of creating an ability to purchase it, charter a company? Aliens are forbidden, I believe, in that State, to hold real estate—could you, in order to multiply purchasers, confer upon

them the capacity to hold land, in derogation of the local law? I imagine this will hardly be insisted upon; and yet there exists a more obvious connexion between the undoubted power, which is possessed by this Government, to sell its land, and the means of executing that power, by increasing the demand in the market, than there is between this bank and the collection of a tax. This Government has the power to levy taxes—to raise armies—provide a navy—make war—regulate commerce—coin money, &c. It would not be difficult to show as intimate a connexion between a corporation, established for any purpose whatever, and some one or other of those great powers, as there is between the revenue and the Bank of the United States.

Let us inquire into the actual participation of this bank in the collection of the revenue. Prior to the passage of the act of 1800, requiring the collectors of those ports of entry, at which the principal bank or any of its offices are situated, to deposit with them the custom-house bonds, it had not the smallest agency in the collection of the duties. During almost one moiety of the period to which the existence of this institution was limited, it was noways instrumental in the collection of that revenue, to which it is now become indispensable! The collection, previous to 1800, was made entirely by the collectors; and even at present, where there is one port of entry, at which this bank is employed, there are eight or ten at which the collection is made as it was before 1800. And, sir, what does this bank or its branches when resort is had to it? It does not adjust with the merchant the amount of the duty, nor take his bond; nor, if the bond is not paid, coerce the payment by distress or otherwise. In fact it has no active agency whatever in the collection. Its operation is merely passive; that is, if the obligor, after his bond is placed in the bank, discharges it, all is very well. Such is the mighty aid afforded by this tax-gatherer, without which the Government cannot get along! Again, it is not pretended that the very limited assistance which this institution does in truth render, extends to any other than a single species of tax, that is duties. In the collection of the excise, the direct and other internal taxes, no aid was derived from any bank. It is true, in the collection of those taxes, the farmer did not obtain the same indulgence which the merchant receives in paying duties. But what obliges Congress to give credit at all? Could it not demand prompt payment of the duties? And in fact does it not so demand in many instances? Whether credit is given or not, is a matter merely of discretion. If it be a facility to mercantile operations (as I presume it is) it ought to be granted. But I deny the right to ingraft upon it a bank, which you would not otherwise have the power to erect. You cannot create the necessity of a bank, and then plead that necessity for its establishment. In the administration of the finances, the bank acts simply as a payer and receiver. The Secretary of the Treasury has money in New York and wants it in Charleston;

the bank will furnish him with a check, or bill, to make the remittance, which any merchant would do just as well.

I will now proceed to show by fact, actual experience, not theoretic reasoning, but by the records themselves of the Treasury, that the operations of that department may be as well conducted without as with this bank. The delusion has consisted in the use of certain high-sounding phrases, dexterously used on the occasion. "The collection of the revenue"—"The administration of the finance"—"The conducting the fiscal affairs of the Government," the usual language of the advocates of the bank, extort express assent, or awe into acquiescence, without inquiry or examination into its necessity. About the commencement of this year there appears, by the report of the Secretary of the Treasury of the 7th of January, to have been a little upwards of two millions four hundred thousand dollars in the Treasury of the United States; and more than one-third of this whole sum was in the vaults of local banks. In several instances, where an opportunity existed of selecting the bank, a preference has been given to the State bank, or at least a portion of the deposits has been made with it. In New York, for example, there was deposited with the Manhattan Bank \$188,670, although a branch bank is in that city. In this District, \$115,080 were deposited with the Bank of Columbia, although here also is a branch bank, and yet the State banks are utterly unsafe to be trusted! If the money, after the bonds are collected, is thus placed with these banks, I presume there can be no difficulty in placing the bonds themselves there, if they must be deposited with some bank for collection, which I deny.

Again, one of the most important and complicated branches of the Treasury Department is the management of our landed system. The sales have some years amounted to upwards of half a million of dollars, are generally made upon credit, and yet no bank whatever is made use of to facilitate the collection. After it is made, the amount in some instances has been deposited with banks, and according to the Secretary's report, which I have before adverted to, the amount so deposited was in January upwards of three hundred thousand dollars, not one cent of which was in the vaults of the Bank of the United States, or in any of its branches, but in the Bank of Pennsylvania, its branch at Pittsburg, the Marietta Bank, and the Kentucky Bank. Upon the point of responsibility, I cannot subscribe to the opinion of the Secretary of the Treasury, if it is meant that the ability to pay the amount of any deposits which the Government may make under any exigency, is greater than that of the State banks; that the accountability of a ramified institution, whose affairs are managed by a single head, responsible for all its members, is more simple, than that of a number of independent and unconnected establishments, I shall not deny; but, with regard to safety, I am strongly inclined to think it is on the side of the local banks. The corruption or misconduct of the parent, or any

of its branches, may bankrupt or destroy the whole system, and the loss of the Government in that event will be of the deposits made with each; whereas in the failure of one State bank the loss will be confined to the deposit in the vaults of that bank. It is said to have been a part of Burr's plan to seize on the branch bank at New Orleans. At that period large sums, imported from La Vera Cruz, are alleged to have been deposited with it, and if the traitor had accomplished his design, the Bank of the United States, if not actually bankrupt, might have been constrained to stop payment.

It is urged by the gentleman from Massachusetts, (Mr. LLOYD,) that as this nation progresses in commerce, wealth, and population, new energies will be unfolded, new wants and exigencies will arise, and hence he infers that powers must be implied from the Constitution. But, sir, the question is, shall we stretch the instrument to embrace cases not fairly within its scope, or shall we resort to that remedy, by amendment, which the Constitution prescribes?

Gentlemen contend that the construction which they give to the Constitution has been acquiesced in by all parties, and under all Administrations; and they rely particularly on an act which passed in 1804, for extending a branch to New Orleans, and another act, of 1807, for punishing those who should forge or utter forged paper of the bank. With regard to the first law, passed no doubt upon the recommendation of the Treasury Department, I would remark, that it was the extension of a branch to a Territory, over which Congress possesses power of legislation almost uncontrolled, and where, without any Constitutional impediment, charters of incorporation may be granted. As to the other act, it was passed no less for the benefit of the community than the bank—to protect the ignorant and unwary from counterfeit paper, purporting to have been emitted by the bank. When gentlemen are claiming the advantage supposed to be deducible from acquiescence, let me inquire what they would have had those to have done who believed the establishment of the bank an encroachment upon State rights? Were they to have resisted, and how? By force? Upon the change of parties, in 1800, it must be well recollected that the greatest calamities were predicted as consequences of that event. Intentions were ascribed to the new occupants of power of violating the public faith and prostrating national credit. Under such circumstances, that they should act with great circumspection was quite natural. They saw in full operation a bank, chartered by a Congress who had as much right to judge of their Constitutional powers as their successors. Had they revoked the law which gave it existence, the institution would, in all probability, have continued to transact business notwithstanding. The Judiciary would have been appealed to; and, from the known opinions and predilections of the judges then composing it, they would have pronounced the act of incorporation, as in the nature of a contract, beyond the repealing power of any suc-



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ceeding; Legislature. And, sir, what a scene of confusion would such a state of things have presented—an act of Congress, which was law in the statute book, and a nullity on the judicial records! Was it not wisest to wait the natural dissolution of the corporation, rather than accelerate that event by a repealing law involving so many delicate considerations?

When gentlemen attempt to carry this measure upon the ground of acquiescence or precedent, do they forget that we are not in Westminster Hall? In courts of justice, the utility of uniformity of decision exacts of the judge a conformity to the adjudication of his predecessor. In the interpretation and administration of the law, this practice is wise and proper; and without it, everything depending upon the caprice of the judge, we should have no security for our dearest rights. It is far otherwise when applied to the source of legislation. Here no rule exists but the Constitution; and to legislate upon the ground merely that our predecessors thought themselves authorized, under similar circumstances, to legislate, is to sanctify error and perpetuate usurpation. But if we are to be subjected to the trammels of precedents, I claim, on the other hand, the benefit of the restrictions under which the intelligent judge cautiously receives them. It is an established rule, that to give to a previous adjudication any effect, the mind of the judge who pronounced it must have been awakened to the subject, and it must have been a deliberate opinion formed after full argument. In technical language, it must not have been *sub silentio*. Now, the acts of 1804 and 1807, relied upon as pledges for the re-chartering this company, passed not only without any discussions, whatever, of the Constitutional power of Congress to establish a bank, but I venture to say, without a single member having had his attention drawn to this question. I had the honor of a seat in the Senate when the latter law passed; probably voted for it; and I declare, with the utmost sincerity, that I never once thought of that point; and I appeal confidently to every honorable member who was then present to say if that was not his situation.

This doctrine of precedents, applied to the Legislature, appears to me to be fraught with the most mischievous consequences. The great advantage of our system of government over all others is, that we have a written Constitution defining its limits and prescribing its authorities; and that, however for a time faction may convulse the nation, and passion and party prejudice sway its functionaries, the season of reflection will recur, when calmly retracing their deeds, and all aberrations from fundamental principle will be corrected. But once substitute practice for principle, the expositions of the Constitution for the text of the Constitution, and in vain shall we look for the instrument in the instrument itself. It will be as diffused and intangible as the pretended Constitution of England; and it must be sought for in the statute book, in the fugitive journals of Congress, and in reports of the Secretary of the Treasury. What would be

our condition if we were to take the interpretations given to that sacred book, which is or ought to be the criterion of our faith, for the book itself? We should find the Holy Bible buried beneath the interpretations, glosses, and comments of councils, synods, and learned divines, which have produced swarms of intolerant and furious sects, partaking less of the mildness and meekness of their origin than of a vindictive spirit of hostility towards each other. They ought to afford us a solemn warning to make that Constitution, which we have sworn to support, our invariable guide.

I conceive, then, sir, that we are not empowered by the Constitution, nor bound by any practice under it, to renew the charter of this bank, and I might here rest the argument. But, as there are strong objections to the renewal upon the score of expediency, and as the distresses which will attend the dissolution of the bank have been greatly exaggerated, I will ask your indulgence for a few moments longer. That some temporary inconvenience will arise, I shall not deny; but most groundlessly have the recent failures in New York been attributed to the discontinuance of this bank. As well might you ascribe to that cause the failures of Amsterdam and Hamburg, of London and Liverpool. The embarrassments of commerce, the sequestration in France, the Danish captures—in fine, the belligerent edicts are the obvious sources of these failures. Their immediate cause is the return of bills upon London, drawn upon the faith of unproductive or unprofitable shipments. Yes, sir, the protests of the notaries of London, not those of New York, have occasioned these bankruptcies.

The power of a nation is said to consist in the sword and the purse. Perhaps, at last, all power is resolvable into that of the purse, for with it you may command almost everything else. The specie circulation of the United States is estimated by some calculators at ten millions of dollars; and if it be no more, one moiety is in the vaults of this bank. May not the time arrive when the concentration of such a vast portion of the circulating medium of the country in the hands of any corporation will be dangerous to our liberties? By whom is this immense power wielded? By a body who, in derogation of the great principle of all our institutions, responsibility to the people, is amenable only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this Government, would not the traitor first aim, by force or corruption, to acquire the treasure of this company? Look at it in another aspect. Seven-tenths of its capital are in the hands of foreigners, and these foreigners chiefly English subjects. We are possibly upon the eve of a rupture with that nation. Should such an event occur, do you apprehend that the English Premier would experience any difficulty in obtaining the entire control of this institution? Republics, above all other nations, ought most studiously to guard against foreign influence. All history proves that the internal dissensions excited by foreign intrigue have pro-

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duced the downfall of almost every free Government that has hitherto existed; and yet gentlemen contend that we are benefited by the possession of this foreign capital. If we could have its use, without its attending abuse, I should be gratified also. But it is in vain to expect the one without the other. Wealth is power, and under whatsoever form it exists its proprietor, whether he lives on this or the other side of the Atlantic, will have a proportionate influence. It is argued, that our possession of this English capital gives us a certain influence over the British Government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards. We should then be able to govern foreign nations, according to the arguments of gentlemen on the other side. But let us put aside this theory, and appeal to the decisions of experience. Go to the other side of the Atlantic, and see what has been achieved for us there by Englishmen holding seven-tenths of the capital of this bank. Has it released from galling and ignominious bondage one solitary American seaman, bleeding under British oppression? Did it prevent the unmanly attack upon the Chesapeake? Did it arrest the promulgation, or has it abrogated the Orders in Council—those orders which have given birth to a new era in commerce? In spite of all its boasted effects, are not the two nations brought to the very brink of war? Are we quite sure that, on this side of the water, it has had no effect favorable to British interests. It has often been stated, and, although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty; and may it not have contributed to blunt the public sentiment, or paralyze the efforts of this nation against British aggression?

The Duke of Northumberland is said to be the most considerable stockholder in the Bank of the United States. A late Lord Chancellor of England, besides other noblemen, was a large stockholder. Suppose the Prince of Essling, the Duke of Cadore, and other French dignitaries owned seven-eighths of the capital of this bank, should we witness the same exertions (I allude not to any made in the Senate) to recharter it? So far from it, would not the danger of French influence be resounded throughout the nation?

I shall give my most hearty assent to the motion for striking out the first section of the bill.

Mr. POPE.—Mr. President, in rising on this occasion, I never more entirely obeyed both my feelings and my judgment. The principle involved in the decision about to be given, is in my view of more magnitude than any which has been presented for our consideration since I had the honor of a seat here. It is no less than whether we shall surrender to the State governments the power of collecting our revenue and rely upon the old system of requisitions. We are called upon to return to that state of imbecility

and chaos from which this political fabric was reared by the wisdom and patriotism of the first statesmen of which any age or nation can boast. For twenty years we have collected our revenue, borrowed money, paid our debts, and managed our fiscal concerns through the agency of a national bank. That it has answered the most sanguine expectations of its authors; that it has been well managed, is admitted by the most decided opponents to the renewal of the charter. Although in public debate, in newspapers, court-yards, muster-fields, &c., we have heard much of dangerous powers, violations of the Constitution, British influence, and poisonous vipers, &c., &c., which were to sting to death the liberties of the people, yet we find ourselves as free almost as the air we breathe, and hardly subservient to the mildest code of laws by which any nation was ever governed. In the city of Philadelphia, and the State of Pennsylvania generally, where these animals called banks have grown to the most enormous size, we find as sound morals, and as much real practical republicanism, as in those parts of the Union, where the rattling of this viper's tail has never been heard, and in point of solid wealth and internal improvements, mark the contrast. We are required to disregard the lessons of that best teacher, experience, and to try some new scheme. However captivating new theories and abstract propositions were a few years since, I believe the thinking men of all parties in the nation are perfectly convinced that one ounce of experience and common matter of fact sense is worth more for the purposes of legislation than a ship-load of theory and speculation. We are told that we must force into the vaults of the bank a large portion of the circulating medium, and thereby depress the price of everything in the market; we must give a shock to credit of every kind, check, and embarrass every branch of agricultural, commercial, and manufacturing industry; give up the young mechanics, manufacturers, and merchants with small capitals a prey to the cupidity of moneyed men; who will be tempted to withdraw their funds from trade to speculate on the wrecks of the unfortunate. This is not mere matter of calculation. I only state facts proved to us by the most unquestionable evidence. We are not only, sir, to ruin many innocent and unoffending individuals, but to derange the national finances; and for what is all this to be done? To promote the public good or advance the national prosperity? No, sir, it is not pretended. We are gravely told that we, the Representatives of the people, must sacrifice the people to save the Constitution of the people, whose happiness and welfare it was intended to secure. If this be true, it is indeed a strange Government under which we live. I advance the opinion with confidence, that no principle which, in its practical effects, outrages the common sense and feelings of mankind, can be a sound one, and we ought to examine it well; and hesitate much before we give our assent. To bring distress on the country, not to prevent a violation of any positive provision of the Con-

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stitution; but to correct what we suppose to have been an erroneous construction of it by our predecessors, of which neither the States nor the people have ever complained, appears to me more nice than wise.

Disguise this question as you will, sir, and still it will clearly appear to be a contest between a few importing States and the people of the United States. Resolutions have been already laid on our table by gentlemen from the two large States; from which instructions have been received in substance, requiring Congress to give up to the State banks the collection of the national revenue. I am, Mr. President, on the side of the people of the United States. This is indeed a question of party, but of a very different character from that which will be attempted to be palmed on the people. It is a contest between the friends and enemies of the Federal Constitution revived; for, if I am not mistaken, the power of laying and collecting imposts and duties was strongly objected to by some of the large States having advantageous seaports, before the Constitution was adopted. I am for preserving both the States and the Union. I consider the safety and independence of the several States and the liberties of the people inseparably connected with and dependant on the efficiency of the National Government, and it is to me unaccountable that gentlemen in favor of strong measures against foreign nations should be so solicitous to strip the General Government of this very essential part of its power. We were told, a few days since, that our Army was so insignificant and contemptible, that it would require a constable, with a search warrant, to find it. I have heard another gentleman of very high standing suggest the propriety of retroceding the ten miles square to the States of Virginia and Maryland. Our gunboats are almost rotten. We have not more frigates and other armed vessels than sufficient to carry our Ministers and diplomatic despatches to foreign Courts, and if we yield to the States the collection of our revenue, what will remain of the Federal Government with which the people can identify their feelings or affections? In what will this Government consist? It will be a mere creature of the imagination—a political fiction. And, analogous to the fiction in the action of ejectment, we shall have to suppose its existence, and then bottom our proceedings upon that supposition. If I was hostile to our Federal Union, or wanted to prepare the public mind for a surrender of this happy system of Government, I would join in the hue and cry against this institution; I would support every measure calculated to destroy all confidence in and respect for this Government both at home and abroad; I would endeavor to produce throughout the country confusion and disorder, and a state of glorious uncertainty; then persuade the people to seek security and tranquillity under some other form of Government. The transition from a wild, factious democracy, to despotism, is often easy and generally sudden. The extremes are very nearly allied. A Republican Government, guided by

the virtue and intelligence of a nation, is the first of human blessings, but when directed by the angry, vindictive passions of party, the worst of which the imagination can conceive. A Republic, to be durable, must inspire confidence and respect. Such instability, such variable unsettled policy as now appears to be the order of the day, could not have been anticipated by any man blessed with a tolerable degree of faith in the success of this great republican experiment. Mr. President, I have ever been opposed to yielding to the commercial interest an undue influence in this Government, but I am unwilling to make an unnecessary and wanton attack upon them. Coming from an agricultural State, I am not disposed to increase the jealousies which unfortunately exist, and thereby weaken the ties by which these States are held together. I am sensible, too, how much the prosperity of the State I represent depends on a prosperous state of trade, and although the shock from the dissolution of this bank will be first felt in the commercial cities, it must immediately react to the extremes of the empire. I know many are under an impression that Federalists and British agents are to be the victims; but very different will be the result. I refer to the evidence detailed by the honorable gentleman from Massachusetts (Mr. LLOYD.) But is it possible that an intolerant spirit of party has prepared us for this? Are gentlemen ready to injure their country, weaken our Federal Union, the sheet-anchor of our political safety, to reach their political opponents? I will not believe it. When I see around me some of the soldiers of the Revolution, actuated I am sure by nobler views; when I see the professors of a religion which teaches us to love our neighbors as ourselves, I cannot persuade myself that Christian charity, and all the noble, generous feelings of the human heart are extinguished by this demon, party spirit. If there be a man in the nation who can witness with unfeeling apathy the distresses of his fellow-citizens, he would have figured in Smithfield in the bloody reign of Queen Mary of England, in binding heretics to the stake; or in the sanguinary time of Robespierre, in adding victims to the guillotine; but he is unworthy the blessings of a free Government.

Sir, I address the Senate under circumstances discouraging indeed. I have been told, and on this floor, that debate is useless; that no man's opinion is to be changed; that I shall find verified in the decision of this question the sentiment contained in two lines of Hudibras—"He that is convinced against his will, is of the same opinion still." I cannot admit this. I know there are gentlemen fully sensible of the evils about to befall their country, without any obstinate pride to conquer, who would rejoice at being convinced it is in their power to avert them. Let me entreat them to pause and reflect, before they inflict a wound on their country's interest, under the influence of Constitutional doubt; and if they err, I would ask them, would it not be more safe and patriotic to err in favor of the people? Permit me now, sir, to redeem this subject from the

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Constitutional difficulties with which it has been encumbered.

To form a correct opinion, we must retrospect the defects of the old Government, and ascertain the remedy which was anticipated in the present Constitution. I believe it will be conceded that the great cause of the inefficiency of the former was not because their principal field of legislation was too limited, but was owing to its dependence on the States for the means to carry their powers into effect. For the truth of this position, I appeal to the history of that day—to the candor of gentlemen who hear me. The present Constitution was framed for national purposes, with ample authority to pass all laws necessary and proper for the attainment of its objects, independent of State authority, except so far as expressly made dependent by the Constitution. The erroneous impressions with regard to this bank have arisen from ignorance of facts, relative to the practical fiscal operations of the Government, and from confounding an original, independent power, to establish banks and corporations, with a necessary auxiliary to the execution of the powers given. By the Constitution it is expressly declared, that Congress shall have power to pass all laws necessary and proper to carry into effect the powers previously enumerated, and all other powers vested in the Government of the United States, or any department or officer thereof. Our power to create a bank is not derived by implication. No, sir. If this express delegation of power had not been inserted, we must have implied the authority to provide the means necessary and proper, &c.

But the Convention, with a full knowledge of the defects of the old Confederation, and deeply impressed with the necessity of an efficient national Government, determined to exclude all doubt by granting to the new Government, in express and unequivocal language, ample authority to use all means necessary and proper for the attainment of the ends for which it was instituted. If a man was requested to look at the Constitution and decide whether power is given to Congress to create a bank, or corporations generally, he would answer in the negative. This would very naturally be the answer of most men upon the first blush of the Constitution. It is not pretended that Congress have power to create corporations as an independent proposition. The authority to establish a bank or corporations is only contended for so far as it can be fairly considered as a necessary and proper auxiliary to the execution of the powers granted by the Constitution. The question of constitutionality depends upon facts, debors the instrument, of which we must be informed before we decide, and which could not be ascertained before the attempt was made to give motion and energy to this political machinery. If the fact be ascertained, by the best evidence the nature of the subject affords, that a bank is necessary and proper to effectuate the legitimate powers of Government, then our power is express, and we need not resort to implication. To prove to the satisfaction of the

Senate and the world, this material fact, will be my business before I request their assent to the position assumed, that Congress have an express power to incorporate a bank. To do this it is indispensable that we should understand the practical financial concerns of the Government, or have the information of those who do. We appropriate money for fortifications on the report of our engineer, Colonel Williams, and for the Capitol, &c., upon the report of Mr. Latrobe. To know how much timber or other materials are necessary for a ship or a house, you must understand the subject yourself, or have the information of those who do. For myself, I am ready to admit that I rely much upon the information and experience of others. To ignorant men, and those who do not profess to be fully acquainted with the nature and management of the national finances, the following evidence is presented. The first, and with many, perhaps the best, not heretofore particularly noticed, which I shall offer, is the Congress of 1781, which established a national bank, called the Bank of North America, during our revolutionary struggle, the utility and necessity of which was ascertained by the experience of that day.

It is worthy of remark, that they created a bank under powers much more limited than ours. That act was not passed precipitately, but was the result of the most mature and deliberate consideration. I beg leave to read the preamble of the law which contains the opinions of that Congress with regard to the utility and necessity of a National Bank. "Whereas Congress, on the 26th day of May last, did, from a conviction of the support which the finances of the United States would receive from the establishment of a National Bank, approve a plan for such an institution submitted to their consideration by Robert Morris, Esq., and now lodged among the archives of Congress, and did engage to promote the same by the most effectual means; and whereas the subscription thereto is now filled, from an expectation of a charter of incorporation from Congress, the directors and president are appointed, and application has been made to Congress by the said president and directors for an act of incorporation: and whereas the exigencies of the United States render it indispensably necessary that such an act be immediately passed—Be it therefore ordained," &c. This act passed on the 31st day of December, 1781. And here permit me to observe that this National Bank, styled the Bank of North America, was not produced by British influence or party spirit. No, sir, the little, slanderous, intriguing partyism of the present moment was unknown to the patriots of that awful period. They had no party but their country—liberty and independence were their objects. Their souls were fired with a noble, a generous enthusiasm, on which Heaven looked down with pleasure. It appears from the journals of the Congress of 1781, that the members from every State were unanimous in favor of a National Bank, except Massachusetts, Pennsylvania, and Virginia—the two members from Massachusetts

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voted against it, the two members from Pennsylvania were divided—of the four from Virginia, Mr. Madison alone voted against it. Here it is evident that, in the very infancy of our Republic, before indeed it could with propriety be said to be born, when every bosom glowed with enthusiasm for liberty and a pure disinterested patriotism, a National Bank was not thought that dangerous, dreadful monster, which the very wise and exclusive patriots of 1811 are endeavoring to represent it to the American people. And the construction given to the grant of powers in the Articles of Confederation by the Congress of 1781, is strong evidence of our right to establish a bank under a grant of powers much more ample, and with money concerns vastly more extensive and complicated.

The next evidence I shall adduce for the consideration of the Senate, is the opinion of the late General Hamilton, appointed by President Washington, the first Secretary of the Treasury; whose province and duty it was to superintend the national finances. His attention was therefore particularly directed to the subject, and, in a very able report to the first Congress, assembled under the new Constitution, he recommended a National Bank. Although opinions have been imputed to this gentleman, very foreign to my feelings and notions about Government, yet he has ever been acknowledged, by the candid and liberal of all parties, one of the first American statesmen. For reasons, which it is unnecessary for me to assign, I will not press his opinion upon the attention of the Senate, but will introduce other and perhaps less exceptionable testimony. The Congress of 1791, which incorporated the present bank, merits the highest regard. It was composed of the most enlightened and distinguished men in America, many of whom had been members of the convention, and were fully apprized of the defects of the old and the objects of the new Government. A large majority of both branches voted in favor of the bank. They were not divided on the question by party. Many who have continued with the Republican party under every Administration voted in favor of this bank. Although different speculative or abstract political opinions were then entertained, yet the spirit and passion of party had not diffused itself so generally through the nation as at a subsequent period. The next authority in favor of this bank, and one which must at all times and on all occasions command the highest respect, is no less than our immortal Washington. He was President of the United States in 1791, when this bank law passed. After it had received the sanction of both branches of the Legislature, with that circumspection and prudence which regulated his conduct through life, he consulted the able men who composed his Cabinet Council on the Constitutional question; they differed in opinion; he heard their arguments for and against the measure; and, after full consideration, approved the law. I cannot yet, sir, take leave of this very important testimony in favor of the bank. The opinion of our Washington has the strongest

claim to our confidence. Let us pause before we disregard his solemn advice. This is the hero who led our armies to victory; this is the Washington, who, at the close of our Revolutionary war, disbanded a disciplined army in the bosom of the Republic, and voluntarily exchanged the splendid robes and ensigns of military power for the plain, humble garb of a private citizen. This Washington, who continued an American, a Republican in heart and in sentiment, until summoned to the mansions of bliss; yes, sir, this illustrious departed hero, this practical statesman, has solemnly declared to the American people that a National Bank is a necessary and proper auxiliary to the execution of the national powers. The last authority I shall particularly notice in support of this institution, is the opinion of the present Secretary of the Treasury, Mr. Gallatin. If this gentleman cannot boast of the military laurels which have adorned the brows of the patriots I have mentioned; as a statesman and faithful public servant, he stands inferior to none. Mr. Gallatin, from his first appearance on the theatre of public life, has been considered by all parties an able financier. At a very early period the finances of the United States became the subject of his particular attention and inquiry; the result of which was a treatise, published in 1796, called "Gallatin on the finances of the United States," in which he gives a decided opinion in favor of this bank. I rely much on his opinion at that period, because it must have been the result of conviction, and not of any party feeling or consideration, as he was then in the minority, and continued in it until the Administration changed. His report to the Senate during the last session of Mr. Jefferson's Administration, and his letter to the committee, show, that time and experience, so far from changing, have confirmed him in the opinion he first formed on the subject; to which I might add every Administration and almost every man practically acquainted with our money concerns. Is not this mass of evidence sufficient to substantiate the facts upon the existence or non-existence of which the constitutionality of this measure depends? I put the question to the candor and good sense of gentlemen, whether they are not satisfied, in the language of the Constitution, that a National Bank is necessary and proper to effectuate the legitimate powers of the National Government? If they answer in the negative, I can only say, he who will neither regard the suggestions of experience, nor believe the report of the great political disciples who have gone before us, would not believe though one were to rise from the dead. And what is the answer to all this out of doors? Why, that we are not to be governed by the information or opinion of others, however well acquainted with the subject; we are so self-sufficient as to disregard the best lights which can be presented to us. The cry is up to the hub, down with the bank, huzza for the party! So long, Mr. President, as I shall be honored with a seat in the Senate of the Union, I am determined to respect my station and my own feelings and character

too much to be driven along by any such idle, ridiculous clamor.

To all the high authority I have mentioned in support of a National Bank, may be opposed the names of some great men of Virginia, who have long since, I hope, got rid of their errors and prejudices; among others will probably be mentioned the name of the present President, who voted against the present bank in 1791, and against the Bank of North America in 1781; no man has a higher respect than myself for his virtues and wisdom, but I believe it is not pretended that he ever was a practical financier. No State can boast of more genius, eloquence, and talents than Virginia; it will, however, be conceded, that no people are more deficient in practical knowledge of finance and the nature of moneyed institutions. Indeed they were, a few years since, frightened at the very name of a bank—as soon as they heard of one, they began to write books, make speeches, and pass resolutions, to lay this ghost of tyranny. It required all the eloquence of my honorable friend from that State, (Mr. BRENT,) to persuade the Legislature that the little Bank of Alexandria would not sweep away their liberties. The talents and boldness with which he on that occasion assailed the prejudices of Virginia, instead of injuring him, inspired the people with the highest confidence in his integrity and firmness; since, however, they have become acquainted with this bank animal, they find it perfectly harmless, and no people in the Union are more disposed to foster them.

The people, in framing this instrument, have avowed the objects for which it was created. They say in the preamble, "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." After declaring by whom and in what manner the legislative power shall be exercised, the qualifications of the electors and elected, the terms, &c., for which the Senators and Representatives shall be respectively chosen, and making various other provisions relative to the legislative department, they proceed to enumerate the principal cardinal powers granted to Congress: among others, that the "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States; to borrow money on the credit of the United States; to regulate commerce with foreign nations, and with the Indian tribes; to establish a uniform rule of naturalization, &c.; to coin money; regulate the value thereof; to declare war, &c.; to raise and support armies, &c.; to raise and maintain a navy."

At the close of this catalogue, of what I shall call cardinal powers, they have inserted the gen-

eral provision before noticed. "To make all laws necessary and proper for carrying into effect the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." This provision contains a general authority as to the means necessary to carry into effect the national powers. The Convention could not foresee or define what laws in the progress of the Government the varying circumstances of the nation might require, and therefore wisely submitted them to the discretion of Congress, to be exercised on facts and circumstances, as they occurred. It has been said this discretion may be used, and so may every other power given to Congress—the security of the people against the abuse of this or any other power is their own virtue and intelligence, and the responsibility of their public servants. The question on every law bottomed on this clause of the Constitution must be, whether it is necessary and proper, or, in other words, fairly suited to, and well calculated for, legitimate national objects; and if it can be fairly considered necessary and proper, and is not prohibited, then it is certainly within the pale of the Constitution.

The Constitution may with propriety be compared to a ship finished as to all the substantial parts before she is put to sea. The people have built the national vessel, directed in what manner the commanders are to be chosen, and made it their duty to provide sails, rigging, seastores, &c., necessary and proper to enable her to perform the voyages for which she was destined; and those appointed to navigate her are not only bound to provide what is necessary and proper for those seas where temperate and gentle breezes are to be met with, but fit her to encounter the most tempestuous seasons.

As I heard much said about absolute, indispensable necessity, I may be pardoned for giving what I consider the sound interpretation of the words "necessary and proper" in the Constitution. This idea of absolute, indispensable, &c., must have originated in an excessive jealousy of power or a decided hostility to the Federal Union. This instrument was framed by and for the people of the United States, and, in the language used, was certainly intended to be understood in that sense in which it is used and understood by them generally. If you ask a plain man what are the necessities of life, he will answer, something below luxury and extravagance, what is calculated to afford him reasonable comfort. Neither a house nor a bed is absolutely or indispensably necessary to a man's existence; he could live in a camp and sleep on boards, or on the ground, yet, the common sense of mankind would respond, they are necessary and proper. If a man had a journey to make, either to Richmond, in Virginia, or Lexington, in Kentucky, although every person would pronounce a coach and six superfluous and unnecessary, all reasonable men would say, he ought to have a horse or a hack, but it will not be pretended that either are indispensable, because he could perform it on foot. If

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a gentleman from Baltimore gives his agent instructions to provide everything necessary for an East India voyage, what would he expect? Certainly that he should avoid unnecessary expense, but would consider him acting within the pale of his authority if he procured only what was reasonably necessary and proper, or, in other words, what was fairly suited to the master and crew, and well calculated to enable the vessel to reach her port of destination. That interpretation is correct which best accords with the common sense and understanding of mankind. It must, therefore, be evident that the only question as regards the constitutionality of the measure to be decided is a question of fact, and that is, whether a National Bank is reasonably necessary and proper, or fairly suited to, and calculated for, the collection of our revenue and the management of our money concerns. And this fact appears to be admitted by the gentlemen opposed to the bill, for their arguments are predicated upon the probability that the State banks will answer the national purposes. This is a complete surrender of the Constitutional objection; for, if banks be necessary and proper, it follows that we have a Constitutional power to create them, and it will be a mere question of expediency whether we will use State banks or a National Bank. My colleague (Mr. CLAY) has asked for the congeniality between a bank and the collection of our revenue? The argument in favor of using State banks shows it, but let the use hitherto made of the bank answer the question. Is not a bank a proper place for the deposit and safe-keeping of money—more so than the custom-house? Is it not a convenient agent for paying and receiving money? Through the agency of this bank our revenue, or the greater part of it, has been collected, our financial transactions done, and public money transmitted to such places as the necessities of the Government required. The revenue collected at Boston, Baltimore, or any other port, is paid, if required, at New Orleans, Natchez, St. Louis, or any other place, without risk or expense. The money in the bank and its branches is payable at such of them as the convenience of the Government may require, and, by this arrangement, we can command the whole of the public money in any quarter of the Union without risk or expense. The operations of this institution have been confined to the seaboard. The principal bank is at Philadelphia, with a branch at New York, Boston, Baltimore, Washington, Norfolk, Charleston, Savannah, and New Orleans. At all which places, the Government has considerable revenue to collect. No branches have been extended into the interior. It has been connected with our fiscal arrangements at all the places to which it has been extended, and may be fairly deemed a convenient, necessary, and appropriate auxiliary to the management of the national concerns. It is said that the revenue is collected at many ports where none of these branches are placed. This is true; the bank and branches are fixed only at the principal seaports, where a large amount of revenue is collected.

Every one draws into its vaults, subject to the demands of Government, the revenue collected at the less important ports in the same quarter of the country. Boston being the commercial emporium of New England, the Government, by the agency of the branch bank there, is enabled to draw to that point most of the revenue received at the numerous ports in that quarter of the Union. The repeated sanctions this bank has received from the different Administrations, and especially from Mr. Jefferson and the Republican party, by authorizing the extension of a branch to New Orleans, and selling one million of the stock, the property of the United States, to British subjects, for four hundred thousand dollars more than the nominal amount is indeed strangely accounted for; gentlemen say the Government were bound to fulfil their engagements, and that the charter, being in the nature of a contract, was sacred. I had thought the fashionable doctrine was, that an unconstitutional law was wholly null and void. It has been held, by some of the States. However plausible the answer to the argument of acquiescence, it furnishes no apology for a positive confirmation. Permit me to assimilate a common case between individuals to the case before us: a man in Washington executes a joint power to five trustees in Kentucky to collect his debts, settle his land business, &c., and authorizes them to take all steps necessary and proper to effectuate the trust or power; in the progress of the business a measure is suggested as necessary, about which there is a diversity of opinion among the trustees. A majority, however, decide that it is within their authority; the principal is informed of it, does not complain or disavow, but positively and by the strongest implication assents to the construction given by his agents. In such a case there would be but one opinion. In 1791 a National Bank is proposed to Congress; they differ as to the constitutionality, a large majority decide in favor of it; the people and the States are informed of the measure, the States do not protest, nor do the people complain; many of the States pass laws to protect the institution, it receives the confirmation of three or four different Administrations, and particularly of the one composed of men originally opposed to it; it violates no positive provision of the Constitution; no mischiefs have been produced, but great convenience and advantage has been experienced by the Government and community. I ask whether, under such circumstances, the question ought not to be considered settled? Is no respect due to the opinions of our predecessors? Is a question of construction never to be at rest? Why is a judge, sworn to support the laws and Constitution of the country, bound by a train of decisions contrary to his own opinions? Because, the good, the peace, and tranquillity of society require it. The conduct of a court, as well as every department of Government, must be regulated in its course in some measure by a regard for the public weal. It is worthy of remark that, notwithstanding all the fuss about implied and incidental powers—if you



except the sedition law, which was supposed to violate a positive provision of the Constitution—the same practical construction has been given to this instrument by every Administration of the Government. Indeed, the sphere of national legislation has been more enlarged under Mr. Jefferson's than any other Administration. All parties have found that the national vessel could not be navigated without sails, rigging, and everything necessary and proper. Whence was derived a power to pass a law laying an embargo without limitation? There is nothing in the Constitution about embargoes. Whence did we derive a power to purchase Louisiana, and incorporate it with the good old United States? There is no express delegation of power to purchase new territory. On these subjects the Constitution is silent. I have approved both. No State can lay an embargo, or acquire new territory. Our power to perform these acts results from the nature of the national sovereignty created by this Constitution. The Republican Administrations have no pretensions to the approbation of the people on the ground of having restrained any latitude or liberality of construction. Their claim to the public confidence is founded on very different considerations. They have repealed the internal taxes, paid a large part of the public debt, purchased Louisiana, and preserved to the nation the blessings of peace. For these acts, they have, I believe, the thanks of the nation. They have mine, most sincerely.

Great stress is placed on the twelfth article of the amendments to the Constitution, which declares the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. I must confess that I cannot discover what influence this can have on the bill under consideration, or any other measure which may be proposed. It appears to me to have been adopted rather to quiet State jealousies and popular fears than with a view to produce any positive effect, for the inquiry must ever be, Is the power given? And if granted, it is not retained. The supporters of this bill do not pretend to usurp any power retained by the States or the people, but contend that the power to pass the bill is expressly delegated, if the facts assumed are true.

It is not pretended that our fiscal concerns can be managed with gold and silver. If our territory was of no greater extent than Rhode Island, Delaware, or the city of Philadelphia, gold and silver would answer the purposes of the Government, but it would require a number of pack horses and wagons to transport the public money in gold and silver, over this immense country, to the different places where it is wanting. Our extensive commerce, and the great extent of this empire, renders a paper medium necessary. Is the power to create this paper medium, or national currency, an attribute of State or national sovereignty? I put the question to the candor of gentlemen, and solicit a serious answer! The argument of my honorable friend from Georgia

against the power of the States to authorize the emission of bank paper, founded on that part of the Constitution which declares that "No State shall emit bills of credit," acquires great additional force, when these bills of credit are made to assume the character of money, for national purposes. In the same article the power to coin money is expressly prohibited to the States, and in the catalogue of cardinal powers granted to this Government, is that to coin money. It will, perhaps, be contended that this only applies to gold and silver, but if that be admitted to be the literal meaning of the words, still it is evident that what shall be the national currency, whether specie or paper, is a proper subject of national legislation. No gentleman will be so absurd as to insist that any State or States ought to coin the current money of the United States. That the power of the States to establish banks may be questioned with at least great plausibility, is perfectly clear, but as this banking power has been so long exercised, as the National and State banks have conducted their operations very harmoniously, as no serious evils call for national interference, I am not for disturbing the existing state of things; it is better, perhaps, that the banking power should be divided between the States and the United States. That bank paper, if good, is in fact money, although not made a legal tender, cannot be denied. The currency of this bank paper of the United States, although made by law receivable in payment of revenue, rests upon a much better foundation than an act of Congress. Its national character, the extended operations of this bank from Boston to New Orleans, have given it credit with the people of every part of the empire, more than the bank paper of any particular State can be expected to have; so that, by common consent, this money coined by the national bank has become the current money of the United States. I hope we shall never be driven to the necessity of compelling our citizens by law to receive our paper. We should so guard and regulate our banking operations as to make the national paper at least equal to gold and silver, in every quarter of the Union.

If this bank is removed, the Secretary of the Treasury must nationalize the bank paper of the great importing States; for, I presume, Congress will never decide what State paper shall be used by the officers of the General Government. Most of the public money is now collected and deposited in the Bank of the United States; if that is destroyed, the Secretary of the Treasury is to deposit in the State banks, and with him is the power of selection—a power and patronage greater than any ever exercised by any officer in this nation. The deposits of the public money are sought after with great avidity, by all the State institutions. He can deposit the whole in one, or divide it between two, or three, or all the banks in any one place. He can change them at pleasure. He may, with great apparent fairness and propriety, make it a condition with every bank where deposits are made that they shall ad-



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point a certain portion of the directors of his nomination, and through them he can reach the credit of any man who may have accommodations in it. It is true we have now a man at the head of the Treasury who may not be disposed to abuse this power, but we may not always have such an officer. This immense power and influence may be exercised in an invisible manner, and, of course, without responsibility. Is this republican? It was not a few years ago. I have always understood that one of the strongest and most popular objections to the Federal Administration was their disposition to increase Executive patronage.

We are told that our remittances to foreign countries and to different parts of the United States can be made in bills of exchange. This, to be sure, is possible, but this mode is less convenient and more hazardous. I believe the Government has sustained no loss in the remittances made to Europe through the agency of this institution. They are able, through the medium of their several branches, to ascertain the credit and solvency of every commercial house in the United States, and thereby to purchase bills for foreign remittances with safety. The great punctuality secured to the Government in the payment of their revenue by their agency, is also an object of some consequence.

Much alarm and delusion have been artfully spread through the country about a violation of the Constitution and a consequent destruction of our republican institutions. I fear the people are unfortunately led to believe that the security of their liberty depends too much upon paper barriers, and too little upon their own virtue and intelligence. It appears to me that the Constitution is occasionally made a mere stalking horse, to serve the purposes of unprincipled demagogues and pretended lovers of the people, to get into power to the exclusion of honest men. They, with great address, distract and inflame the public mind about some nice Constitutional question, or abstract proposition, and thereby bring the people to decide, not which candidate is the most entitled to their confidence, but who rides the finest electioneering hobby. We are misled very much, I believe, by theories and terms more applicable to other Governments than our own. In Great Britain, they speak with great propriety of the Government and people, because there is in that country an immense power independent of the people. But here, where every public functionary is responsible to, and the Government in the hands of a majority of the people, those terms do not appear to me applicable in the sense in which they are used in other countries. My reflections and practical observations on the Government incline me to the opinion that, with regard to measures of general policy, not assailing individual liberty or right, or the independence of any State, there is not that danger to be apprehended from a liberal construction of the Constitution which gentlemen seem to imagine. So long as the Government is in the hands of the people, measures affecting the whole nation, if

oppressive or inconvenient, will be resisted, and corrected by the public feeling and opinion. This is not mere theory. Look at the State of Connecticut, one of the best regulated democracies in ancient or modern times, whose Legislature is as omnipotent as the British Parliament. What people enjoy more real liberty and independence? In what country is to be found more practical, intelligent republicanism? Those principles which secure the rights of the citizen and the responsibility of their public servants are held sacred, but the Legislature is, I believe, unrestricted with regard to measures of general policy. It is a truth which ought to be deeply impressed on the American mind, that the preservation of this republican system depends more upon the virtue and intelligence of the people, and the responsibility of their public servants, than paper restrictions. It is unfortunate that every measure calculated to advance the national prosperity is arrested by some Constitutional difficulty. The bills respecting the Ohio and Delaware canals, which passed the Senate, have been opposed in the other House by the same Constitutional obstacles urged against this bank. I may be asked if I am opposed to any limitation on the powers of the Government? to which, I answer no. I think the nature of the powers to be exercised by the General Government ought to be defined with as much precision as the imperfection of human language and foresight are capable of. The convention acted wisely in giving no more latitude than was necessary to the success of the experiment. Not because I think them so essential to the security of the rights of the people as to prevent unpleasant and dangerous collisions of authority between the National and State governments. In the application of this instrument, by the different men and parties, to the ground supposed to be embraced by it, some trivial variation from what may be deemed by many the true political meridian was to be expected, and a small allowance is, perhaps, due to human fallibility. It will be some time before the boundary line will be plainly marked by usage and practical construction. So far as it has been ascertained, and any question of power settled by common consent, every consideration connected with the good of our country forbids us to disturb it. Gentlemen endeavor to alarm us with a thousand imaginary dangers. They say, suppose Congress were to do this, that, and the other monstrous thing. You may suppose anything, and make what deductions you please. Suppose the people were to destroy their own liberties, what then? Their liberties would be destroyed. Suppose they were all to collect on the bank of the Potomac, plunge into the stream, and drown themselves; why, to be sure, they would be drowned, but, does it follow that there is any danger of their doing either? All this supposing seems to accord better with a sentiment advanced by a celebrated Senator a few years since, "that the people's worst enemies are themselves," than the generally received opinion respecting the nature of this Government.

This bill, probably, is opposed by many under an expectation of a new national bank. As this question will, at least, appear to be decided on Constitutional ground, their expectations will hardly be realized. Indeed, it is questionable whether either foreigners or our own citizens will again vest money in a national bank. The fall of this will throw a large portion of the banking capital into the banks of the great commercial States, whose influence and hostility will be increased against a new national institution. But why put down one national bank to raise up another? How are the people to be benefited by it? I shall be told, perhaps, that the direction ought to be changed. And what will be this change? Why, merely putting out one set of moneyed men to put in another, who will very soon be the same. If this be the object, I will only observe,

"Strange there should such difference be  
"Twixt tweedledum and tweedledee."

It is but the difference between Hopkins and Sternhold, and Sternhold and Hopkins. A new national bank, with an increased capital, would, to be sure, open a new field of speculation and increase that influence of which gentlemen pretend to complain; for, if moneyed men retain their confidence in our institutions, the same motives which induced foreigners to purchase seven millions of the present stock, will induce them to purchase the stock of the new bank. I hear, with some astonishment, gentlemen opposed to this bill, and particularly my friend from Tennessee, (Mr. ANDERSON,) declaim with such apparent earnestness about the danger of this institution with a capital of only ten millions of dollars, when I recollect the partiality they manifested for a bill before us last year, which proposed to create a national bank with a capital of thirty millions. On the motion to postpone that bill till the first Monday in December last, in substance a motion to reject, it will be found by reference to the Journals that most of those opposed to this voted against the postponement. If this bank of ten millions is such a viper, a thirty million bank would, indeed, be a monster. Gentlemen may say that, although they voted against postponement, they intended, ultimately, to vote against the passage of the bill. Let this be conceded, and still their votes evince a decided preference of the new to the present institution. I voted for the postponement because I was not entirely convinced of its constitutionality, nor was I satisfied with the details. The banking operations of the present institution are confined to the seaboard, and may be considered a necessary and proper mean subordinate to the end of aiding the finances, but the bill I have mentioned, contemplated an extension of branches into every part of the country, to places where the General Government had no revenue to collect, and the creation of it might, perhaps, be deemed the exercise of an independent, original power, transcending the limit of an auxiliary measure. I do not design to give a decided opinion of the

constitutionality of it at this time. Other substantial objections to that bill will suffice to justify my vote, if necessary. If the object of gentlemen was to eradicate the banking system from the country, I might, in obedience to my former prejudices, be more disposed to join them. But this is not even pretended. The sole object in the death of this, is, to generate more of these vipers, under State or federal authority.

The people of the United States, through the medium of the National Government, have within their control that portion of the moneyed capital vested in this bank, which is not only a convenient agent, in the management of the finances, but furnishes loans to the Government, to answer occasional deficiencies in the revenue. If we relinquish entirely our power over the moneyed capital, will not the influence of the interior States be diminished, and that of the commercial States increased? The importing States will have the moneyed capital; the greater part of our revenue will be collected by their banks, and we shall not only be dependent on them for loans, but they can at any time withhold our revenue, without the interposition of force.

The sum required to be paid by the stockholders, is strongly objected to. And why, sir? Is there any thing unreasonable in this provision? The privileges and benefits, to be enjoyed by them, they will derive from the people of the United States; for which, justice requires them to pay the people an equitable equivalent. This sum is demanded in the nature of a tax on the privilege granted. The premium contemplated with the probable advance on the five millions of stock, authorized to be subscribed by the United States, will amount to about three millions of dollars. They are to pay three per cent on the public deposits, which will, I suppose, without pretending to have made an accurate estimate, amount to several millions more during the term of incorporation; so that this bill, if passed into a law, will bring into the national treasury five or six millions of dollars, for the benefit of the people of the United States; and what are we about to do! Why, sir, give it up to the large States on the seaboard, in whose banks, we are told by gentlemen on the other side, this very dangerous foreign capital will be vested, and our revenue deposited. Well may those States clamor about State rights and State interests, but how the interest or importance of Kentucky in the Union, or of any State where none of the national revenue is collected, is to be advanced by the destruction of this institution, I am not conjurer enough to discover.

It might be contended with some plausibility, that this Government is under an implied obligation to continue this bank upon equitable terms, and with reasonable modifications. The present stockholders, both citizens and foreigners, have paid for every 100 dollars they own from 140 to 150 dollars. The Government sold at about that advance a few years ago. When the Congress of 1791 passed the law declaring that there should be a national bank, did they intend it to

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be a temporary institution? In the numerous transfers of stock which have taken place, was it so understood? Could it have been expected that a Government, which declared a national bank necessary and proper, the first twenty years of its existence, would dispense with it afterwards? The limitation of the corporation to that period was very proper. It is highly expedient that these charters should return occasionally into the power of the people, to afford them an opportunity of revising and correcting them; besides, such a limitation, by increasing their dependence, gives some security to the community against abuses. Has not the conduct of the Government authorized an expectation, that this bank would be continued? And if it has, are they not bound by the rules of morality to fulfil that expectation, unless the Constitution or public good clearly forbid it?

Although this subject has received much false coloring through the country, by charges of British influence, &c., I did not expect to hear it from an honorable Senator of the United States—it has not indeed been positively asserted, but hinted in such a manner as to make an impression on the community. Some stale circumstances connected with the British treaty have been very unnecessarily lugged in to increase the prejudices against this bill. It has been insinuated, that British influence, operating through this institution, has prevented the Government from taking strong measures against Great Britain; but in what manner this has been effected, gentlemen have not been good enough to explain. Did it prevent Mr. Jefferson from taking a war course? For I believe it is generally understood that he was opposed to a war. Has it operated upon the present Executive? Such a suggestion will not be made. I have, during my service here, given a fair and faithful support to the Administration, and I have certainly voted for stronger measures than they were willing to accept. It is due to the 10th and 11th Congresses, who have been so much abused, to state, that their course, as regards the question of peace or war, has been in perfect unison with the views of the late and present Presidents. Let it not be inferred that I am disposed to find fault; I believe when we consider the very extraordinary state of the foreign world, and retrospect the embarrassing circumstances which have surrounded us, the course pursued by them ought to be deemed substantially correct, certainly so as respects their leading object, which has been to avoid making this country a party in the present war. If I was disposed to censure, it would be for not making an effort to chastise some of the British armed vessels which lay in our waters after the affair of the Chesapeake, in open contempt of the President's proclamation; if a single vessel had been driven out or compelled to strike her colors, it would have healed the wound inflicted on the national pride and feeling, committed by the *Leopard*.

That this Government should have an influence with foreign Governments proportioned to the interest their subjects have in our funds, is

probable, but how this interest gives them an influence here I am at a loss to perceive: foreigners cannot even vote in the appointment of directors. If there is any reality in this idea of foreign influence through this institution, why did gentlemen permit the present stockholders to be incorporated into the bill introduced last year? And why was not a provision inserted to prevent foreigners from purchasing additional stock?

We are told too of their partiality in discounts. I might answer this argument, by asking, what bank or what administration has not been partial? What member of this Senate has never used his influence in favor of his friends against men, perhaps, of more merit? If partial evils or small improprieties are to authorize a war of extermination against our institutions, none would prove so immaculate as to escape the general catastrophe. By the bill reported, an odious feature in the present charter, granting an exclusive privilege, is expressly repealed, and the Government authorized to subscribe stock and appoint directors. This will give us a sufficient control to guard against all the evils, real or imaginary, which have been complained of. I have heard no gentleman advocate a simple renewal of the charter. This charge of partiality on the score of party, at least for the last twelve years, has been completely repelled by the deputation of five from the mechanics and manufacturers of Philadelphia, and let it be remembered, too, that these men are republicans of the first water. We are arraigned, sir, for the great attention and respect shown to the two deputations from Philadelphia, one in behalf of the mercantile, the other of the manufacturing interest; from the latter we received the most of the facts which have been detailed to the Senate. They did not come armed with any political resolutions to influence our deliberations; no, they were sent to represent the embarrassments of the commercial and manufacturing classes in Philadelphia, arising from the apprehended dissolution of the bank. And was it improper in the committee to hear them? Their candor and respectability were not doubted by those of the committee most opposed to the bank. Is anything more common in England than for Parliament to hear witnesses, and even counsel, in behalf of any class of men whose interest is supposed to be affected by a measure depending before them? And shall we deny to American citizens privileges enjoyed by British subjects?

Gentlemen say the embarrassments in Philadelphia could not have been occasioned by the Bank of the United States, because they continue to discount as usual. If I recollect the evidence—and I hope to be corrected if I mistake it—it was this—that the calling in of ten per cent. on their debts occasioned such a pressure, that they were prevailed upon to extend their discounts until the ultimate decision of Congress should be known. I have heard it seriously urged that the evils and inconveniences to be experienced from its dissolution, prove it to be a dangerous institution; the same argument would prove that the Government ought to be destroyed. Noth-

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ing, indeed, seems too absurd for the human mind to seize upon, when under the influence of passion or misguided zeal.

I must omit, Mr. President, many of the remarks I intended to offer to the Senate on this bill—I owe it to other gentlemen who wish to express their views. Before I sit down, I beg leave to say a few words about the liberty or tyranny of the press. Tyranny is to me, sir, a hideous fiend in every possible form. A press well conducted is invaluable; but this palladium of our rights may, if permitted to exercise an undue influence, be made the instrument to entomb the liberties of this people. With what indignation would an attempt through the medium of the press, to intimidate a court or jury in relation to a controversy while pending, be viewed; and what course would be taken? I need not answer the question. And is it not equally important that our deliberations should be free from an improper and irresponsible influence? After I have given my vote, I am ready to meet investigation; but this system of abusing and denouncing members who may speak or vote for or against a measure depending before Congress, is a monstrous outrage upon the independence of the National Legislature; and every attempt of editors to influence their decision by assailing or exciting unfounded prejudices against them respecting a subject upon which they are deliberating ought to be reprobated and resisted by every friend to his country.

If it is once understood that Congress are controlled by the dictatorial arrogance of the press, what will be the consequence? However pure the press may now be, if it should become an object with a foreign nation to give a direction to our measures, or of a junto of assassins behind the curtain to proscribe every honest, independent man from the confidence of the people, a sufficient number of them will be purchased at any price, and through this medium, if well combined and organized, an unseen power will guide our Councils.

My honorable friend from Georgia has been reminded of the Macedonian phalanx. I trust, sir, we shall ever be found associated with a phalanx American, Republican, in heart and sentiment. I will not sacrifice the interests of my constituents for fear of being called hard names. The epithets of quidism, quadroonism, or any other ism which malice or policy may suggest, shall not drive me from the course called for by the public good. I am proud that I represent a people just, generous and independent, not to be carried away by unmeaning clamor. Before they discard a public servant, they will view him both on the political theatre, and in the walks of private life. They know, too well, that those are not always the best Christians who sing hallelujahs on the house top, nor have they forgotten the celebrated Sempronius, who, on the approach of Cæsar, thundered war in the Roman Senate, and at the same time was secretly co-operating with the traitor to overthrow the liberties of the Roman people.

Deeply impressed, Mr. President, with the opin-

ion, that the rejection of this bill will give at least a temporary check to the prosperity of the rising State from which I come, I shall give my negative to the motion to strike out the first section. Yes, sir, not only the interest, but importance of that State in the Union is about to be sacrificed. When I look beyond the mountains, and remember that Kentucky has nurtured me almost from my cradle, that she has bestowed on me her choicest honors, my bosom is filled with emotions of gratitude, which impel me to say on this, as on all other occasions, Kentucky, I am only thine!

SATURDAY, February 16.

Mr. CUTTS, from the committee, reported the bill to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation, correctly engrossed; and the bill was read the third time as amended, and passed.

The bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed," was read the second time, and referred to a select committee to consider and report thereon; and Messrs. FRANKLIN, GILMAN, and REED, were appointed the committee.

The bill, entitled "An act for establishing trading houses with the Indian tribes, was read the second time, and referred to a select committee to consider and report thereon; and Messrs. SMITH, of Maryland, FRANKLIN, and BRADLEY, were appointed the committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I now lay before Congress the treaty concluded on the 10th of November, 1807, on the part of the United States, with the Great and Little Osage tribes of Indians, with a view to such legal provision as may be deemed proper for fulfilling its stipulations.

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JAMES MADISON.

The Message was read, and laid on the table.

The PRESIDENT communicated a letter from the Governor of the State of Ohio, enclosing a resolution of that Legislature, approving the measures of the General Government; which were read.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed on the 25th day of April, 1791;" the motion to strike out the first section being under consideration.

Mr. SMITH of Maryland said, that in seconding the motion to strike out the first section of the bill, he had pursued a course which in his opinion was the most correct. When I first took a seat in Congress (said he) the course of proceeding was to fix the principle by resolution, and, that once fixed, to send it to a committee to report a bill. By a motion to strike out the first

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section the principle will be tried, and the Senate, if the motion fails, will go into a discussion of the provisions of the bill. This I conceive a better course, than for the Senate to go into discussion of the details of a subject which would probably be ultimately rejected on the general ground of principle.

The gentleman who introduced this subject spoke with great animation and with great feeling against the press or presses which have undertaken to give their opinions upon this great and important question. He spoke with much warmth, and said that whoever knew him would not believe that he would permit himself to be driven out of his opinion by any man or set of men. There is no man, sir, the least acquainted with the gentleman from Georgia (Mr. CRAWFORD) but will believe his declaration. But another result may be apprehended, that those who feel so great an offence at the freedom the press has taken, may be driven into the opposite course by the irritation of their feelings. Certainly those feelings must have been extremely strong with the gentleman from Kentucky (Mr. POPE) to have induced him to terminate his speech with an oration hostile to the press. Are the gentlemen from Georgia and Kentucky the only Senators who have had their feelings wounded by the conduct of the press upon this subject? Sir, if the gentleman's opinions and sentiments have been censured by one description of presses, he may find consolation in having been greatly eulogized in others. For more than a year those on the same side of this question with myself have had their opinions tortured into every shape to destroy them in the estimation of the people; not only in this session but during the last. Sir, there are some presses in the Union which could not exist, whose papers would not be read, but for the discussion of individual character. Is any advantage to be derived from complaining of this? It results from the nature and temper of our Government, and the best way I have ever found to treat it, is with silent contempt. He who does otherwise engages in the contest at a great disadvantage, and will seldom come out the victor. In the same presses of which those gentlemen complain, I have seen them both eulogized, and properly, for their conduct on the subject of the embargo and West Florida questions.

If the press be an evil in this respect, we must submit to it; those gentlemen who take a high and prominent stand must expect to be noticed. Sometimes gentlemen will be put down by the press, but, their conduct being correct, will more frequently be written up by its abuse.

It has been objected that this question is discussed on the ground of party; and the gentleman from Georgia, as I understood him, said, that this had been made a party question elsewhere, and might be so here. [Mr. CRAWFORD said he had mentioned no place, but had said that this might be made a party question.] I understood the gentleman to say, said Mr. S., that this may again be made a party question. But for this

observation of the gentleman the subject of party would probably not have been introduced at all; and we must indeed shut our eyes or we cannot avoid seeing that this is made a party question, at least on one side. Do you see one gentleman, one solitary gentleman of one party, discriminated generally as Federal, who does not vote for this measure throughout? Do you see one public body in Philadelphia or New York which has a majority of Federal directors or agents, which has not come before you with memorials drawn up with the ingenuity of lawyers, to impose on your judgment? Have not the same party prepared memorials and got the subscription of every one of their caste, bringing forward nearly the same number of petitioners as they have of Federal voters? Have they not done so in Baltimore? Of that city I would say as little as may be, for being a manufacturing as well as a commercial city it has stirred up an animosity in some gentlemen against it not easily accounted for. In Baltimore, on a warmly contested election, the Federal party mustered eight hundred and fourteen votes, all they could parade with their every exertion. To the petition for the renewal of the charter of the bank, there are eight hundred and forty-odd signatures! They have gained some few since the latest contest. Is this coincidence of members, this exclusively Federal petitioning, no mark of party? They have also got one public body in Baltimore to memorialize in favor of the bank; the rest were not to be intimidated by the threats of the Bank of the United States. What, sir, have the other party done? Have they disturbed the quiet of either House? Have they brought forward the mass of their voters as signers to petitions? No, sir, they have trusted the subject to their Representatives, confiding in their disposition and ability to speak their sentiments. The representation of New York, Philadelphia, Baltimore, Norfolk, and Charleston, in the other House, have opposed the renewal of the charter. Every city high in estimation as a commercial city is opposed to the renewal of the charter, except Boston. This speaks with a strong voice what are the feelings of the people; stronger evidence cannot be presented to the human mind. Far be it from me, sir, to endeavor to work up the feelings of party spirit on this occasion; but the thing itself was one of the first causes which created the present parties and separated man from man, and brother from brother. This measure was originally brought forward and adopted when the representation in Congress was not bottomed on an actual supposed census of the people of the United States. Sixty-five members composed Congress then, which was a representation taken by accident. If a proportionate representation had been given to the States according to their population, the law probably would not have passed. The States of North Carolina and South Carolina had each five Representatives, being thus placed on an exact equality. Now North Carolina has twelve. South Carolina only eight. What was the vote then? Out of sixty-five members thirty-

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nine voted for the bill. It was not, as my friend from Kentucky said, a subject fully discussed or carried by a tremendous majority.

The bank having been formed, it may not be improper for me to take some view of its beginning and its operation. At first its operations were confined to Philadelphia; it extended its branches some time afterwards to Boston, New York, Baltimore, and Charleston. Wherever it extended its influence, dissension commenced; wherever it placed its foot, it became absolutely necessary for the States to erect another bank to counterbalance its pecuniary and political influence. In Philadelphia it began to oppose certain people and turn down their paper. The State of Pennsylvania, in defence of its own citizens, created the Bank of Pennsylvania. Here was a check upon its pecuniary and political operations. I believe I am not mistaken when I say that soon after it commenced in Boston a new bank was established there, from what cause I know not. In Baltimore, sir, it soon taught us a lesson, and we met the lesson as other States had done. Charleston and New York acted in a similar way. Operating as the bank did on the politics of the country before its effects were neutralized by competition, man being man, place him where you will, those concerned in the direction of the bank felt power and exercised it. When the British treaty was pending before Congress the president and directors (as I am informed) themselves carried about a memorial to Congress in its favor, with what view and with what effect may easily be conceived. In Baltimore (until we were able to check them by other banks) its political influence was great. Prior to the great struggle between the parties, in 1793, they did permit one democrat to be within the walls of the sanctuary, (as a director,) a gentleman of as much respectability and independence of character as any one of the direction. He was however (immediately after daring to give his vote in favor of a democratic candidate) put out; and since that time no man of democratic principles has been permitted to enter its walls as a director. Men must shut their eyes to the fact of this being a party institution, when they see that no democrat has been admitted to the direction of the bank but in this city, and New York, where the collector was admitted a director for the purpose of protecting the public money at the instance (it is said) of the Secretary of the Treasury. Can we shut our eyes so as not to see that men hostile to the democratic party, and of course to the success of the administration of the Government, are not the most proper persons to have charge of its pecuniary concerns? I would have been very unwilling to have gone into this part of the subject; but when the gentleman from Kentucky, scarcely able to restrain his rage, cried out, party! party! I was bound to show that it was not those with whom I act who had any agency in pressing the subject of party into the present discussion.

The gentleman from Kentucky reprobrates the system of petty mischievous intrigue for the purpose of carrying measures through Congress.

No man, sir, despises or contemns such conduct more than I do. But on whose side has this intrigue been? It is necessary to put the saddle on the proper horse. Have we gone to insurance companies or corporations of one kind or another? Have we intrigued with the people, to induce them to take sides with us? No, sir, we have been tranquil, we wanted no aid of that kind. Have we sent persons here to intrigue with members, or a deputy to remain here the whole of the last and present session, to explain to Congress the effect of putting down the bank, and threaten them with destruction and ruin to the United States if they passed the measure? No, sir, we have had no one here. Have we stirred up the people into town meetings to aid us by memorials? No such thing, sir. Have we called meetings and induced honest mechanics to come here to influence Congress by idle fears, impressed upon them by those who are interested, to tell a tale that shall answer our purposes? No, sir, we have pursued no such course.

Respectable merchants, I observe, form a part of the bank deputies—for what? To represent the late fall of the price of flour as a consequence of the danger of the bank charter not being renewed, and thereby to alarm the minds of members. I am sorry that men of such respectable character did permit themselves to come here on such an errand. I think I have seen in the papers that one of the manufacturers (now here) on being asked to sign a petition for the renewal of the charter for twenty years, said, he would rather cut off his right hand than sign it; he wished only a renewal for a short time to give the bank an opportunity to wind up its affairs. If this statement be true, and of its truth I have no cause to doubt, it shows the depth of that intrigue which sent this gentleman here, through the instrumentality of his excellent character, to get a renewal of the charter for a period which he never contemplated. These are intrigues for which men ought to blush, and from which, I thank God, we are exempt. At the time these deputies arrived, there were three mechanics of Baltimore here, of character inferior to none, and of wealth inferior to few in Philadelphia, and who would have given a different view of the subject, if they had been asked to appear before the committee. I thought it unnecessary—I wanted no assistance of that kind, no species of intrigue. They did, however, declare, sir, that granting this charter would be a death-blow to the politics of the State of Maryland. They did believe the renewal would be injurious to them, for neither they nor many of the manufacturers of Baltimore had received much advantage from the branch bank; they had their own banks, from which they generally received accommodation. Another species of intrigue is carried on, to wit, by pamphleteering. The press is groaning with pamphlets—for what? To teach the minds of members on this question, the necessity of renewal and probability of destruction to the nation, if their demands are not complied with. Our tables are covered with

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pamphlets of that tendency. Has there been anything of the kind on our part?

I will now take a view of a part of the subject, into which, permit me to say, I have been pressed by other gentlemen, to wit: What has been the operation of the bank in regard to the collection of duties prior to 1800? Prior to the institution of the bank, the collectors took the bonds of the merchants for duties, received the money, and deposited it for safe-keeping in the State banks, where there were any. After the bank was erected, it had, for some time, but two branches; still the revenue was well collected, I am informed, where the branch banks of the United States were not as where they were, and yet, it is said, we cannot have that reliance or confidence in the banks of the States as we can on the branches of the Bank of the United States. The gentleman from Massachusetts told us that in five New England States there was but one solitary branch bank; and I could not find from anything that the gentleman said, that he apprehended any distress would overtake the New England States. The gentleman from Kentucky (Mr. POPE) told us that, in Boston, the branch was the great bank of deposit; that in the trifling out-ports it was not of so much consequence to have branches, the whole collections being drawn into the branch bank at Boston. In order to show that there is an absolute necessity for these branch banks in the collection of the revenue, the gentleman (Mr. POPE) ought to show that the company can place a bank wherever money is to be collected, without enlarging the present capital; for, if it were extended beyond its present amount, his conscience would be pricked; for, if I understood him, he does not advocate the constitutionality of the bank, if its capital was extended beyond what he supposes to be necessary.

[Mr. POPE said his idea was, that a bank of thirty millions must extend its branches where there was no necessity for them, and where banks of another description were competent to all the ordinary purposes of society.]

And, of course said Mr. S., if the capital extended beyond the limits of the gentleman's idea of necessity, it would be doubtful whether it was Constitutional or not. Can a ten million bank extend itself, as the gentleman contemplates, to every place where the United States have monies to collect? In the State of Massachusetts there are twenty-three collection districts: Boston owns eighty-three thousand tons of shipping; the only branch of the United States' Bank in the State is in Boston, whilst the other ports of that State own two hundred thousand tons of shipping, and have no branch in any of them. The gentleman from Kentucky erred extremely, when he supposed that those towns in Massachusetts which had no branch were of little importance. In the town of Salem, where there is no branch bank, there is, perhaps, more East India trade than from any town in the United States: the town of Nantucket, also, is a great trading place; the town of Portland is a great trading town, and there are a number of other towns of great com-

merce in Massachusetts, none of which have a branch bank, and yet I am informed from high authority that there are no towns in the Union where the revenue is better collected than in those towns. The branch bank at Boston, then, may be considered as a treasury chest, and has nothing to do with the collections; an office where the Secretary of the Treasury keeps an account to know whether the State banks transmit the money properly to Boston or not. I have been informed, sir, by the Comptroller of the Treasury, that nowhere are collections better made than where there is no branch bank. It is among the most ridiculous of all ideas, to say that the bank has any influence on the payer of the bond. The influence on the payer, is this, and this only, that, if the merchant does not pay his bond when due, he has no longer credit at the custom-house; he is compelled thereafter, and until his bond is paid, to pay the cash for all duties, and in that way only does he suffer. I agree with the Secretary of the Treasury that the creation of banks has contributed to produce greater punctuality of payment; but this arises as well from the State banks as from those of the United States. A note given to an individual now must be paid, or the credit of the signer is lost; but that has no operation as to the collection of the revenue. In case of non-payments of bonds, what course does the bank pursue in relation to custom-house bonds? The same as with ordinary notes. If the bond be not paid when due, the cashier returns it to the collector, who puts it in suit. The bank is a mere place of deposit for the safe-keeping of the bond, and has no farther interest in or discretion over it after its payment is refused. There are in the United States, including the Territories, ten banks, emanating from and including the mother Bank of the United States; and without these banks we are told the revenue cannot be collected. This does appear to me to be one of the most extraordinary arguments that ever entered the mind of man. Let us examine it. In the State of Massachusetts there is but one bank to collect from twenty-three ports, possessing, independent of Boston, one-fifth of the whole tonnage of the United States. There is no bank of the United States in Connecticut, and yet Connecticut pays her duties as punctually as any State in the Union. There is no branch in Rhode Island, and who ever heard that Rhode Island did not pay her duties punctually? Maryland has eight ports and but one branch. Virginia has eleven ports and no branch, but a little one at Norfolk, whose operation is confined within the limits of that town. Where there are no branch banks of the United States in the ports of that State, (Richmond and Petersburg, for instance,) the duties are better paid than where there is a branch—I am authorized to say so. In North Carolina there is no branch bank, and yet there is no difficulty whatever in the collection of the revenue. South Carolina has a branch bank. Georgia, in four ports, has but one branch. My object, it will be observed, is to show that the revenue has been as well collected where there

were no branch banks, as where they have existed. Let me tell the gentleman, (Mr. POPE,) that the banks of the United States afford no facility in the collection of the revenue that it is possible for them to avoid. I state this, as deducible from the report of the Secretary of the Treasury. He states that there is in the Bank of Manhattan one hundred and eighty-eight thousand dollars of the public money. From what cause did it get there? The truth, it appears, was, that the branch bank of the United States in New York refused to receive Connecticut or Rhode Island paper, and the Secretary of the Treasury was compelled to deposit it in the Manhattan Bank, which bank agreed to receive that paper. Here, then, sir, we see that a State bank, although it gains no advantage from the deposit of New York, yet has accommodated the Treasury by taking and accounting for the bank paper of Connecticut and Rhode Island and placing it in a situation in which it can be made use of with facility. Again, we find that, in Georgetown, the Bank of Columbia has a deposit of \$115,000 of public money. How did it get there? The Secretary informs us in his report; "that the deposits in the Bank of Columbia arise from occasional drafts on some collectors in Virginia, and from the receipt of moneys, 'paid at the Treasury for lands, patents, &c., in bank notes not receivable at the office of discount and deposite, Washington.'" That is, sir, the branch bank of Washington refused to receive Virginia paper from those collectors, and refused to give any aid or assistance in the collection of the revenue, except that which went to their own emolument. Not so with the Bank of Columbia; it opened its vaults to all, and if any man desires it he may deposit in the Bank of Columbia the paper of Virginia, Maryland, or Pennsylvania, and the cashier will give him a check on some of the banks of those States for the amount. This they will not do in the branch bank. Do gentlemen suppose that the notes of the United States' Bank pervade the whole United States? No, sir, they do not. Does a gentleman, representing Ohio, bring bank notes of other States to pay for his constituents for land bought of the United States, or debts due in Philadelphia? Can he go to the branch bank and pay them? No, they are not bank notes of the United States, but of the individual States, and the branch bank at Washington will refuse to receive them. The Bank of Columbia, on the contrary, will receive them, and will, if he wishes, pay the money in Baltimore, Philadelphia, or New York, or will pay it here into the Treasury. What bank is it that collects the revenue derived from the sales of Western lands? Not that of the United States, which is represented as indispensably necessary for the collection of the revenue. No, sir, the collection is made by the Bank of Pennsylvania, which bank established a branch at Pittsburg, and collects the money due the United States from the purchasers of public lands, as stated in the report of the Secretary of the Treasury.

There has been one great mistake entertained by a gentleman (Mr. LLOYD) with respect to New Orleans. He supposes that there is no Territorial bank in that city, and asks how the collection of duties will be made without one. The Bank of the United States there has a capital of only \$300,000, that of the Territory has \$600,000, as good a bank too as any in the United States. And, notwithstanding what has been said, the banks of New Orleans are in as good credit, and have more specie, in proportion to the population of the city, than any banks in the United States. If we should be fortunate enough to obtain a majority for destroying this bill the gentleman need be under no apprehension for any injurious result arising at New Orleans. The public money will be as safe there as in any bank, and we shall find as honorable men directors of the Territorial bank as in that of the branch bank of the United States established in that city.

There is scarcely an evil which has not been attributed to the embargo, and which is not now, with as little justice, attributed to the expected non-renewal of the bank charter. Great failures have lately taken place at New York; bills of exchange on London, to a large amount, have returned protested, and the drawers are not able to pay the holders, and to the present critical situation of the bank some gentlemen attribute the distress brought upon those who have suffered by these failures and protests. But, Mr. President, what is the real cause of those failures? They are confined principally to New York, and may be attributed to the following causes: It is natural for men born in Great Britain to entertain predilections favorable to a commerce with that country, their connexions, as well commercial as of family, are there; their credit is there; and, from those causes, the house which has failed, and carried so many others with it in its fall, has probably directed the principal part of its commerce to England; they have, no doubt, shipped cotton and tobacco, the trade in which being in a great measure confined to Great Britain, the natural consequence has been, that the markets of England were completely glutted; tobacco, except the very fine Virginia, scarcely paid the charges of freight and commission, and the loss on cotton must have been nearly fifty per cent. The consignees, under those circumstances, refused to pay the bills drawn upon shipments of those articles. The bills returned protested, and ruin to the American shipper has been the consequence. At any other time the English merchants would have accepted the bills, and held the cargoes for a better market; but, at that time, ruin stared every man in the face. No man in London knew who to trust, and very few would enter into engagements which they saw any difficulty in meeting. No censure ought to be attached to the American shipper, for, by the usage of trade between the United States and Europe, the American merchant is entitled to draw for two-thirds the amount of his cargo on transmitting invoices and bills of lading with orders for insurance. Other causes have existed to cause the present distress in New



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York and elsewhere, to wit: the seizure, detention and confiscation of property in Denmark, Prussia, and France, of ships and cargoes to the amount of many millions, on the proceeds of which cargoes merchants calculated to meet their engagements at home, and to meet their bills drawn on London. For, sir, the merchants who make large shipments to the Continent, order the greatest proportion of their proceeds to be remitted from thence to London, and, on the expectation thereof, draw bills on their friends there. Disappointment has been the consequence of such seizures and losses; protests of such bills and ruin has followed. But, Mr. President, we might with as much propriety attribute the late great failures in England and on the Continent to the expected non-renewal of the bank charter, as those which have happened in New York, or the present distress of the merchants in the United States. The returns of the bills protested, to so large an amount, of course destroyed the merchant's credit at bank; he failed, and, by his fall, has caused the ruin of others. When a great house fails, it is like a game of nine pins; knock one down and it will probably carry with it four or five others.

When the honorable gentleman, who was up yesterday, made an observation on the remarks of my friend from Tennessee, (Mr. ANDERSON,) he certainly was not warranted in what he said. He supposed that my friend from Tennessee gave a vote at the last session different from that which he should give now. I can only say for him that he (Mr. ANDERSON) then said, uniformly, "make your bill as good as you can, but I shall vote against it on Constitutional grounds." He wished the bill perfect, if it should pass, though he was fully determined to vote against it.

We have been told, Mr. President, in case the charter should not be renewed, that we shall find in future great difficulty in obtaining loans. What loans, I ask, have Government ever received from the Bank of the United States? I recollect, when I first entered Congress, that Government were indebted for loans made from the bank, but I also recollect that the bank complained of the loans as an inconvenience, and that Congress took the earliest measure in their power to pay them off, and have, since that period, made no new loan from the bank until that made payable the first of January last. I will not inquire whether even that loan was necessary, but I will venture to promise, sir, and will give any security that may be required, that the State banks will give a similar accommodation, to wit: If the Secretary of the Treasury will deposit with the State banks two millions five hundred thousand dollars of the public money, (the amount of the late loan,) they will lend Government to the same amount, and thus do as the Bank of the United States has done, *lend you your own money*, and very kindly receive from you an interest of six per cent. therefore. We are told that the bank has lately lessened the discounts of individuals ten per cent., and that the merchants are thereby greatly distressed. Is that a fact? If it is, and great distress has ensued therefrom, what will be the distress of the

merchants if the bill now before you shall pass; and if, agreeably to its provisions, Congress should (at any time hereafter) call on the bank for the loan of four millions promised by the bill? If, sir, a lessening of their discounts one-tenth per cent. creates distress, what will be the consequence, when, by a loan of four millions, called for from the bank, the bank shall be compelled to lessen the discounts four-tenths?

But, sir, the promise to lend four millions from a bank of ten millions is idle; it is worse, it is deception on the face of it. The loan, if made, would not be from the bank but from the merchants, whose discounts would thereby be lessened, and whose ruin would follow.

We are told that, if the charter of this bank be not renewed, and the funds of the United States be deposited in the State banks, it will be extremely unsafe, because, it is said, we can have no control over them. And, I wish to know, sir, what control we have over the Bank of the United States? None, but the same as we may have over the State banks. We cannot check the operations of the Bank of the United States, and if they obtain this charter, they will know that they can have their charter renewed whenever they please; so that, the fear of a non-renewal of their charter will have no operation on them in future. You will have a much greater control over the State banks, because you are under no obligation to put money in them, and you can change them whenever you think proper; the danger of losing the public deposits will always be a sufficient control over their conduct. The security of the State banks is doubted, however; and we are told, very gravely, indeed, that there is much more security in the mother bank, and her nine children, than in ten independent banks. This I must deny. I should, as a merchant, place more confidence in ten independent houses than in one with nine branches.

At this point, Mr. SMITH—being unwell—gave way for an adjournment.

MONDAY, February 18.

Mr. LEIB presented the memorial of Ralph Edwos, stating that he has a considerable quantity of merchandise imported in the ship *George Washington*, whereof Luderic Krumbhaar is owner, and which is now under detention, as having arrived subsequent to the revival of the non-intercourse law, and praying relief, for reasons stated at large in the memorial; which was read, and referred to the committee to whom was referred, on the 7th of December, so much of the Message of the President of the United States as concerns the relations between the United States and France and Great Britain, to consider and report thereon, by bill or otherwise.

On motion, by Mr. ANDERSON, the bill for the relief of David Porter, a commander in the Navy of the United States, was recommitted to a select committee, further to consider and report thereon; and Messrs. ANDERSON, FRANKLIN, and GREGG, were appointed the committee.

The Senate resumed the consideration of their amendments, disagreed to by the House of Representatives, to the bill, entitled "An act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl river."

*Resolved*, That the Senate recede from their amendments, disagreed to by the House of Representatives, to the said bill.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed," reported it without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory, and the bill was ordered to the third reading.

#### BANK OF THE UNITED STATES.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed on the 25th day of February, 1791."

Mr. S. SMITH said he was not in the habit of asking the indulgence of the Senate, but on the day when he spoke last he had been very unwell. He then had occasion to observe, in answer to the arguments of gentlemen, on the course of proceedings by the bank on its first establishment. It has been observed, said he, by an honorable gentleman from Kentucky, (Mr. POPE,) "that the question on the Bank of the United States was not originally a party question, and had not excited much sensibility at the time." When first this question came before Congress, sir, it excited not a little sensation. The doings of the convention having been recent, were then fresh in the minds of such of the members of Congress as had been in that body. To them it was well known that an unsuccessful attempt had been made in that convention to give the power of creating charters. The subject, it is well known, was very fully and amply discussed on the passage of the charter. The honorable gentleman from Georgia has, in the course of his argument, disclaimed all authority, and depends (as every gentleman should) on a fair construction of the instrument itself. Not so with my friend from Kentucky, (Mr. POPE;) he bottomed himself on authority, and called in to his aid the great name of WASHINGTON. He told us also of the able support that measure received from a gentleman for whose virtues and talents he always had the highest respect, although generally differing from him in politics; he meant General Hamilton. He also called in to his aid the opinions of the present Secretary of the Treasury. These, sir,

are powerful authorities. General WASHINGTON, it is true, signed the charter, and gave it the sanction of his name and authority. But let it be recollected, sir, that General WASHINGTON demurred on the bank bill till the last hour of the ten days, and that he signed it reluctantly at last. He took the opinion of the then Secretary of the Treasury, Mr. Hamilton, on the subject; it was an able one, and he being at the head of the Treasury Department, it had in consequence a powerful effect on the mind of General WASHINGTON. It was as ably resisted in point of argument by the late President of the United States; and however high may be my opinion of the talents of General Hamilton, I must venture to believe, that in point of a discriminating mind, Mr. Jefferson was no wise his inferior. The charter, also, was opposed by the then Attorney General of the United States, (Edmund Randolph,) a man inferior to few in point of legal knowledge; and but for the impression made on General WASHINGTON by General Hamilton, (whose being at the head of the Treasury Department added great weight to his opinion,) he probably never would have signed it. In the discussion of that question a very able part was taken by Mr. Madison. The name of that gentleman as President of the United States has been made use of by the gentleman from Kentucky; I am not certain that we are entirely in order when we undertake to bring into debate the name and opinions of the President of the United States. It having, however, been done, I should presume that I shall not be out of order in pursuing the same course. The arguments of that gentleman on that occasion add another wreath to his fame. Neither was its rejection less ably advocated on that day by my friend from Virginia (Mr. GILES.) In point of authority I produce these, as at least equal to those brought forward by my friend from Kentucky. We are therefore left, as we ought, to exercise our own judgments on this instrument itself, the authorities being counterpoised.

I have already, sir, taken a short view of the course of the proceedings by the bank for the collection of the revenue. Permit me to pursue that point. Prior to the establishment of any branch bank in the United States, the collectors, as I have already stated, did collect each for himself; and, after the money had been so collected, they paid it over into the banks, either of the States or the United States, where it was deposited for safe-keeping, the banks being accountable to the Treasury for the amount. There was no difficulty at that time that I ever heard of in conveying the public money wherever the exigencies of the country might require. After the branch banks were extended, no use was made of them but as places of safe-keeping for the public money. They had no instrumentality whatever in the collection of the revenue prior to the year 1800, simply treasure boxes (if you please) in which the public money was deposited. This was the course of business for nine or ten years after the charter of the Bank of the

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United States had been created. No use, I repeat, whatever (for nine years of its existence) was ever made of the bank or its branches for the collection of the revenue; they were mere places of safe deposit. If they were necessary and all-essential, why were they not necessary and equally essential at all times? Was not the revenue equally as well collected for the first nine years of their existence as it has been since, and with as little loss to the public? In one thousand and eight hundred, a bill was brought in and passed. If my recollection serves me, I was the author of it. My object, whether I was the author of it or not, was not to aid the collection of the revenue. Such an idea never entered my mind. I knew the collection of the revenue was then well made. What, then, induced me to bring in or advocate that bill? It was this: the collectors gave bond and security when they entered the office; I feared that they might aid those gentlemen who became their securities, and from time to time lend to them (for their private uses) the public money. It appeared to me that it was to the private interest of the collectors, as well as the public interest, to deposite the bonds taken for the revenue in the great towns within the banks of the United States. Prior to 1800, the collectors took the bonds themselves and kept them in their offices. To put it out of their power (if they were so disposed) to lend their friends the public money, I was induced to support that bill; and I have no doubt that it did save the public money in some instances from the effects of the failures in 1798. The bonds in the six great towns were, after that, as the law of 1800 directed, deposited in the bank and its branches, and collected by a short notice being sent from the bank to the merchant, to wit: that his bond became due on a certain day, and the bonds were ever after paid into those banks. The banks had no instrumentality whatever in obtaining (except in that way) payment of those bonds. Compulsory process was not found in the Bank of the United States, but in the revenue laws; if the debtor did not pay the bond when it became due, he lost all credit at the custom-house, and must thereafter pay cash; he is put under the ban. This is a lien on his punctuality, and it is such a lien as secures to Government the punctual payment of the revenue. However unable the merchant may be to pay the debts due to individuals, every exertion will be used by him to pay the debts due to the United States for his bonds. I trust that from this practical exposition of the operation of the banks, (and as far as my information goes, I am bold to say it is a correct one,) that no gentleman will doubt that State banks will be as efficacious in the collection of the revenue as those of the United States have been.

But in the event of a non-renewal, we are asked, how are we to pay the Army and Navy, and the public officers? Precisely in the manner we have always paid them, through the instrumentality of the banks. At New Orleans (where a greater part of our Army now is) the public money will be deposited in the bank of that Ter-

ritory, consisting of a capital of \$600,000—a bank as well and as honorably conducted as that of the United States. For a draft of the Paymaster of the Army of the United States on that bank, the deputy paymasters will have the option to take either paper or hard dollars. I may add, that the Territorial bank paper is as well received and in as good credit as the paper of the branch bank at New Orleans. How is your Navy generally paid off? By a Treasury warrant on the Bank of Columbia, (which is not a branch bank,) and which is paid in branch or other paper at the option of the holder. Would this paper by such means be made a coin of the United States? No, sir, it would have no such effect. If, however, the purser of the Navy should ask specie for his Treasury warrants, the Bank of Columbia would give it to him; it is at his option to take the one or the other. In like manner your public officers will be paid.

In what paper, the gentleman asked, will your duties be collected? In that kind of paper which the collectors or the Secretary of the Treasury will think as secure as that of the United States. If a merchant offers to pay his bond with paper not approved of by the cashier of the State bank, (where the bonds are deposited,) he will refuse to receive such paper. What will be the consequence? The merchant must pay approved paper or specie, or his credit will be lost at the custom-house; the consequence I have already stated. As I have observed, sir, let the gentleman look into the respective States, among the farmers, merchants, and planters, of the interior, and see what proportion of the paper in circulation is that of the United States—I venture to say not one for ten; and it arises from this circumstance, that the agents and factors of the farmers and planters do business principally with the State banks.

But, Mr. President, some kind of inconvenience, it is thought, will result from the dissolution of the bank, because its paper is an universal medium. Sir, there will be an understanding between the banks of the different States; and the Secretary of the Treasury tells you that arrangements are nearly completed to attain that object; the Secretary does not complain of the inconvenience that some gentlemen appear to apprehend. I am of opinion that the more accounts the Treasury opens with the State banks the easier will be the transmission of the public money. What is the present mode of making remittances by individuals from New York to Richmond? A merchant in New York wishes to purchase five hundred hogsheads of tobacco in Richmond. If he applies to the branch bank, and says he wishes to make a remittance for the purpose of purchasing tobacco at Richmond, the branch bank will not, cannot aid him; but if he applies to the Manhattan, Farmers, or Mechanics' Bank, they will take his money and give him a check on Richmond to enable him to make his purchase. Here then is a convenience not afforded by the United States' Bank and its branches. In the same way will the State banks act in relation to the funds of the Government. The Government wants

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\$100,000 at New York. They have it not there, but have it however at Richmond. All the Secretary of the Treasury will have to do, will be to direct the cashier of the Virginia Bank to send \$100,000 to New York. It is done every day for individuals, and no inconvenience is experienced. Suppose a merchant in New York wants to buy a cargo in Baltimore; he applies to the branch bank in New York, takes out their notes and sends them to Baltimore to buy his cargo; he will apply to the branch bank of Baltimore, and say, "here are notes of the branch bank of New York, give me money for them?" No, sir, the cashier will not receive them, the branch bank will not take the paper even of the mother bank. They may do it to oblige particular gentlemen, but they are not obliged to do it. I have said that the paper of the mother bank is not a payment to the branches; nor are the bank notes of the branches to the mother bank. Each branch is bound only to receive its own paper, and not that either of the bank or any of its branches. For instance, lately (as I am informed) the branch bank of Baltimore being called on by the mother bank for specie, applied to the Union Bank for specie, for a debt due by that bank of \$50,000. Assigning as a reason that they were called upon for specie by the mother bank. The cashier of the Union Bank said, as was natural, we have notes of that bank to the amount of \$100,000, we will pay you in them; her own paper will certainly be as good a payment to her as specie. No, was the answer; you must give the specie; and the specie was paid. The Union Bank was in consequence compelled to send to Philadelphia at its expense, for payment of the notes which it held of that very bank. A similar transaction (I have been told) took place between the Mechanics' Bank of New York and the branch bank of that city. I state these cases to show that the paper of the mother bank is not a universal medium, not even payment to her own branches; whereas, in the understanding which exists from Richmond to the Bank of Columbia, from the Bank of Columbia to the bank in Baltimore, and thence to New York, the paper of each will be received by each, and when too great a balance exists against either, its paper is sent to the debtor bank, for which it returns specie. I cannot believe that any gentleman can seriously suppose that bank paper can be considered as coin. It is true that by your law all the paper of the mother bank and its branches, is receivable in payment for duties; but it is not a currency in all cases, because it is not a tender in any, except for duties, and if I owe a note at the branch bank of Baltimore, and offer to pay mother bank paper, it is optional with the branch whether it will receive it or not. I have no way of compelling them to receive it, because no paper is a tender to it, but that of its own branch, except, as I have said, for public dues.

I have been referred by my honorable friend from Georgia (Mr. C.) to the late letter of the Secretary of the Treasury. I have been told by my friend from Kentucky, (Mr. Pope) that he is

willing to place his faith on the great talents of the head of the Treasury. I am not going to contest the talents of the Secretary of the Treasury. Nor have I the smallest objection to his letter on this subject as respects the information it has given. I respect it as that of one of the high officers of our Government, and hope I never shall be found (from any fortuitous circumstances) to doubt its due authority. I shall treat it as I would all the reports from the heads of departments, with respect; but I will not be bound by the report or pin my faith (as my friend from Kentucky, Mr. P. proposes to do) on the sleeve of any man breathing. I did not object to this letter, but I had an objection to bringing in by committee a support of this kind, which is to have the preponderating force of a report of the head of a department, to the aid of gentlemen on that side of the question. I did state, and now repeat it, that in 1793 and 1794, so powerful an instrument did such reports become, in support of improper measures, that the House was offended; and the Secretary of the Treasury (Mr. Hamilton) was compelled to confine himself ever after to the handing in reports stating facts, without being allowed to give opinions and to use arguments in support of them. An intimation was given by a resolution of the House, and we had afterwards no arguments sent to us by the Treasury. We received facts, statements, and documents, and were permitted to form our own opinions. A course however has been latterly taken in our proceedings which fully justifies the honorable gentleman from Georgia in the course that he has pursued as chairman, and will also justify the Secretary of the Treasury in the greater part of his letter. I am not to be understood as having (on a former occasion) cast censure on the Secretary of the Treasury for writing the letter; it became his duty to answer the inquiries of the chairman of the committee; he did so. But the letter is now before us, and having been referred to by the gentleman from Kentucky, I will take it up in its parts, and in doing so I have no disposition to inflict the least wound on the feelings of the Secretary of the Treasury. He begins with saying, "Having already in a report to the Senate of March 20, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday." Here then, sir, he bottoms himself and his opinions on the report of 1809, for a national bank—a bank truly national, not of the limited capital of the United States' Bank, which is scarcely enough for the pocket expense of the merchants in a single city—not a ten million bank, which was adequate to all the purposes for which it was intended twenty years ago; but not now, when we have grown up to a state of comparative grandeur. The Secretary of the Treasury wants a bank, I presume, something similar to that which was proposed at the last session; to which, if I recollect right, my friend from Kentucky was

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opposed. If the letter of the Secretary be the authority on which my friend wishes to bottom himself, he ought to take the whole of it. The Secretary does not mean by that paragraph to advocate a simple renewal of the charter, but a national bank, capable of extending its ramifications into every State, and placing branches in every State and town where large collections of public money are made. That being the view of the Secretary of the Treasury, I wish we had known how at the last session to have drawn out his aid in support of his own measure. Again, the Secretary says, "The banking system is now firmly established, and in its ramifications extends to every part of the United States. Under that system the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys." Here the Secretary says, the banking system has extended its ramifications in every part of the United States. True, sir, but it is not the banking system of the United States; that system only affects a few cities. What then are the ramifications he alludes to? The State banks, through whose instrumentality collections have been made with as much honor, punctuality, and correctness, as by the Bank of the United States, and with more facility to the Government, because those banks will receive the paper of other banks in payment; whereas the branch banks will not.

"That the punctuality of payment is principally due to banks is a fact generally acknowledged." That is, sir, that the banking system has introduced punctuality between man and man, which has created a regularity in all pecuniary transactions. The Secretary, however, certainly cannot mean to attribute that punctuality to the Bank of the United States, but to the general system of banking. The sentence is, however, ambiguous.

"Its punctuality is to a certain degree enforced by the refusal of credit at the custom-house, so long as a former revenue bond, actually due, remains unpaid." Here, sir, I disagree with the Secretary. Punctuality in payment is not in a certain degree enforced by a refusal of credit at the custom-house, but by that alone. The refusal of credit at the custom-house is alone the real enforcing cause. It was not therefore wise or correct in the Secretary to insinuate that it was only in a certain degree. The loss of credit at the custom-house will always compel the merchants to pay their bonds to the United States, however they may deal with individuals.

The Secretary then goes on to state that, "he thinks nevertheless that in order to insure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish altogether the credit now given on the payment of duties." If no use was made of banks, credit he thinks should be abolished at the custom-house; and gentlemen who read this cursorily will be apt to apply the remark to the Bank of the United States. Not

so the Secretary of the Treasury; the sentence is ambiguous, but he must mean that if there were no banks of any kind, punctuality between man and man would not be so assured, and the merchants would not be so competent to meet their engagements, as they would if aided by banks.

"State banks may be used," (says this report:) "and must, in case of a non-renewal of the charter, be used by the Treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted through their medium, with less convenience, and in some respects with perhaps less safety than at present, but without any insuperable difficulty; nor will the United States have any other control over the manner in which the business of the banks may be conducted than what may result from the power of withdrawing the public deposits."

What inconvenience can there be? None that I can imagine, nor will there be any. The safety will be the same, for let me again repeat, that the Treasury has no more control over the Bank of the United States, under the law as it now exists, than it will have over the State banks. What control (it may be asked) will the Treasury have over the State banks? A powerful one, in my opinion. If it do not appear that they are conducting your and their affairs safely, the Secretary will take the public deposits from such and place them in others: you can thus operate powerfully on the interests of those with whom the public deposits are made. Have you more control now over the Bank of the United States? No, sir, not so much, for the law compels the Secretary to deposit the public bonds with the Bank of the United States and its branches, and he has no power to withhold them.

I am bold to say, sir, that the State banks are conducted with as much prudence and as much security in the large towns as that of the United States. In Virginia, as I have already stated, there is a trifling branch of the Bank of the United States, of \$300,000 dollars capital. That branch is in a corner of the State, with which the people of Virginia have very little intercourse. Their great intercourse is with the banks of Richmond and Fredericksburg. What is the state of the specie of the Bank of Virginia? It is superior to that of the Bank of the United States. I believe the capital of the Bank of Virginia is one and a half millions of dollars; it has near two millions of dollars in its vaults at present—it generally divides eight per cent.—the last dividend was ten. Here then is a dividend greater than that of the Bank of the United States; and the Bank of Virginia has none of that check from the United States' Bank which is deemed by my friend from Georgia so necessary to the regularity of State banks. [Mr. CRAWFORD explained, "that those who gave testimony against themselves certainly might be believed; and the State banks had themselves stated that they were kept in a salutary check by the Bank of the United States."] Mr. S. continued. I am happy to learn, sir, whence the gentleman drew his conclusion that

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the Bank of the United States was necessary to keep the State banks in check. I do not know what species of directors they can be who tell us that it is absolutely necessary that we should have the United States' Bank to check them and keep them from injuring themselves. It is the old doctrine of Mr. Morris revived in a new form, that the people are their own worst enemies. Can it be believed that the directors of any bank would state that the Bank of the United States was necessary to check them? If it be so in Philadelphia, it is certainly not so in Richmond, where they have not this check. So far from the branch in Virginia keeping the State banks in check, the Bank of Virginia always keeps the branch at Norfolk in check. The Secretary does not give his positive opinion on the competency of State banks to the transmission of revenue, &c. but says, "it may be added, that even for ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State, and that loans to the United States are by many of the charters forbidden, without a special permission from the State." If there be any such charters, the Secretary of the Treasury need not make use of the banks which have them; he may find enough of banks that can give ample security. As for the ordinary and extraordinary business of the Treasury with the banks, I have already shown that for the ordinary business the State banks can do it as effectually and with as much security as has heretofore been afforded by the branches. The Secretary then goes on, sir, to give his opinion in direct contradiction to the bill before you, and shows that whatever reliance gentlemen may have placed on his authority, they have not reported a bill in conformity to it—

"It does not seem necessary to advert to the particular objections made against the present charter, as those may easily be obviated by proper alterations. What has been called a National Bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications, which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country."

This project, sir, was tried at the last session. We unfortunately did not get the aid of my friend from Kentucky. It was then agreed to merge the whole capital of the Bank of the United States in a National Bank, but rejected by the bank agent—a bank of thirty millions, which would have been found capable to extend its ramifications wherever banks might be wanted. The Secretary's letter speaks of the plan of the National Bank and not of the one contained in the bill presented to us. The Secretary continues, "without dwelling on the inconveniences of repaying at this time to Europe a capital of seven millions," &c. The Secretary, Mr. President, is

considered by his friends a very great man in fiscal operations—in commercial matters, I may be permitted to have opinions of my own, and to differ from him (without offence to my friend from Georgia) on a question simply and exclusively commercial. Now, sir, where is the difficulty of sending these seven millions (owned by foreigners) to Europe? There is no more difficulty, I answer, than for the merchant who owes seven thousand dollars in England to remit it. This seven millions will not be taken out in silver or gold to send to England, as is feared by gentlemen. No, sir, men do not carry political enmities to the extent to injure their own interests. The foreign stockholders will not remit specie, because, if they do, it will cost them from five to seven per cent. If they do not remit in specie, how will their funds be conveyed to England? By the most plain and simple mode that can be. The agents of the British stockholders will do one of two things; they will vest the funds in the State banks, or funds of the United States; or direct their agents to remit the amount in bills of exchange—and how will that be done? By buying bills of exchange, which, for every ninety pounds paid here, will yield them one hundred pounds in England, because bills of exchange are ten per cent. below par, and there is no chance of their rising. As they can make this gain by bills, does any man conceive that they will not thus remit their money, if remitted at all? Well, sir, gentlemen will perhaps again ask—can we spare this money from the United States, and will it not injure the young industrious mechanics and ruin the agricultural interest? Those are idle fears; an exchange of property will take place. The American merchants have at this time more than double the amount (of these seven millions) now in, or which soon will be in, the hands of the English merchants, which they will be glad to transfer by bills to the British stockholder for his funds in the stock of the Bank of the United States, and thus the English stockholder will receive the amount of his stock without one dollar of specie being sent out of our country, and the funds of our merchants now in England will thus replace the funds of the English stockholders.

Here follows an apprehension of the Secretary founded on false premises. He says: "And without adverting to other possible dangers of a more general nature, it appears sufficient to state, that the same body of men who owe fourteen millions of dollars to the bank, owe also ten or twelve to the United States, on which the receipts into the Treasury for this year altogether depend; and that, exclusively of absolute failures, it is improbable that both debts can be punctually paid at the same time." Permit me here to observe, that I differ with the Secretary on the question of fact. I cannot believe that the ten or twelve millions due by the merchants for duties to the United States are due by the same individuals who are indebted to the Bank of the United States, the fourteen millions stated by the Secretary; because I know that the great body of the merchants who owe for duties, do

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their business with the State banks, and of course cannot be those who are stated as debtors to the Bank of the United States. Some of my friends, for whose opinions and persons I have an unbounded respect, are still apprehensive that great distress will result for want of the usual discounts to the merchants of the United States in case of a non-renewal of the bank charter. The fear is an idle one; it will be precisely the old story of the green ass. It will be remembered nine days, and not much longer. The course of proceedings will be this: The Secretary tells you that arrangements have already been made to transfer the money from the Bank of the United States to the State banks. I believe they are in full operation. He will take three millions of dollars (the public money now deposited) from out of the Bank of the United States, and put it into the State banks. Add thereto above four millions of deposits, the property of the merchants, which will also be taken out of the Bank of the United States and put into the State banks. That is, seven millions of dollars will be immediately drawn from the Bank of the United States and placed in the State banks. Upon this money the State banks will feel themselves justified in going into larger discounts, and, upon such funds, will be able to take up all good paper thrown out by the United States' bank in consequence of the non-renewal of its charter. Were I a negotiator in the Bank of the United States, and had I great discounts in that bank, and were the moneys transferred, as I have suggested, I should have no apprehension, and should put my paper in the State banks, into which the deposits are removed, with a full confidence that it would be discounted. This, then, is an idle phantom, raised to deceive gentlemen who are not particularly acquainted with the business. What is the reason, sir, that none of those fears, those horrible terrors (presented to our imagination) are felt in Baltimore? The merchants there, generally, are of the Republican party, and feel none of those fears. And yet, sir, we are told of the great distress, and almost led to believe that universal ruin will ensue. The distress will not be felt sixty days after the 3d of March. If felt by any, it will be by those who can now pay five shillings in the pound, and who, if they go on three months longer, would not pay sixpence. We are told that this bank has been honorably, correctly, impartially, and fairly conducted. The honorable gentleman who made this declaration assured us that he was not versed in the subject of banking; and this was at once giving a most convincing reason against his opinion. He receives the opinions of the gentlemen who are most friendly to the institution, probably from gentlemen that never felt a partiality for any other. Let the gentleman apply to merchants on the other side of the question, and he will receive very different information indeed. In Boston, the honorable gentleman from Massachusetts told us that the bank has for its President a gentleman of high talents, great integrity, and respectability, and he did not depict him too highly. I know him well,

and am bound to believe the information the gentleman has given as to the well-managing of the branch bank there. By the well-management of a moneyed institution, we understand an attention to the advantage of the stockholders. In that point of view, no doubt, the bank has been well managed. I have a letter, which goes to prove, to my satisfaction, that the branch at New York has not been managed with all that impartiality and correctness which has been stated by the deputies from Philadelphia. I will read an extract therefrom; the writer is a gentleman whom I highly respect, of mild manners, good sense, and great respectability. He says: "I can speak from experience to this fact, impartiality. I have employed a capital of between two and three hundred thousand dollars in trade here (New York) for several years, and from being considerably engaged in navigation, my bonds for duties to the United States have amounted to many thousands a year; yet I can aver that the branch bank has never aided me in the payment by discounts, or otherwise, while the Manhattan Bank has freely discounted the paper which the branch rejected, merely by reason of the contamination of passing through Republican hands." I know nothing, Mr. President, but from such information, as to the partiality or impartiality of the bank at New York, except from common fame, who is sometimes said to be a common liar; still some confidence is due to general report. In Philadelphia, it is said that the bank has been impartially and honorably conducted; and I will not doubt the gentleman's words. I do not know what it has done lately, but, some years ago, I heard such a detail of its conduct as was no proof of the allegation. In Norfolk, I will venture to say, that the conduct of the bank never was considered impartial; and I had a letter last year from a highly respectable merchant in that place, which, if now in my possession, would have proved the contrary. In Baltimore, sir, we have heard it said in another place, that the bank discounted as much for Republicans as for Federalists. I cannot contradict this; I cannot, because I have not seen their books; but I believe there is not one Republican in Baltimore who will give his assent to that information. If it were the case, I could not well have failed to know it. We ought not, sir, to place entire reliance on the information of interested men. We were told, but a few days ago, and the information was derived, I believe, from the same identical letter as the stated information, "that the Union Bank of Maryland was the first bank which refused to receive foreign gold." I have inquired into that fact, sir, and find that the Union Bank never refused it, except in one instance, until the House of Representatives rejected the bill from the Senate on the subject of foreign coin. I have a letter from the cashier of that bank in my hand. He writes: "that the first information I had respecting foreign gold was from the cashier of the Bank of Baltimore, (Mr. Cox,) who handed me the proceedings of the banks in Philadelphia on that subject. It is impossible for me to say

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' which was the first bank that refused to take it ;  
' and can only state, for ourselves, that we contin-  
' ued to receive and pay it, at its usual value,  
' (with one or two exceptions,) the amount not  
' exceeding \$200 or \$300 difference, until the  
' House of Representatives refused to agree to  
' your resolution on that subject in the Senate.  
' On the 30th of October last, we received from the  
' Bank of Maryland, \$10,000, without deduction,  
' as you will see by the enclosed certificate." I  
state this fact, sir, at this time, only to show how  
cautious gentlemen ought to be in placing reli-  
ance on information of this kind. It is impossi-  
ble for me, living as I do in Baltimore, to believe  
that the Republicans have experienced impartial  
conduct from that bank.

We have been told, sir, that the high improve-  
ment in the agricultural State of Pennsylvania is  
to be attributed, in a great measure, to banks,  
particularly to the Bank of the United States.

The gentleman (Mr. POPE) called upon us to  
remark the difference in the improvement of cul-  
tivation between that State and others, and to see  
what the State owed to the institution of banks.  
I have no doubt, sir, that the institution of banks  
has contributed as well to the prosperity of agri-  
culture as of commerce ; but this effect has been  
much more produced by the State banks than by  
the Bank of the United States. Has Connecti-  
cut any branch of the United States? None ;  
and yet the honorable gentleman from Kentucky,  
when he travelled through that country, could  
not have failed to see as high a state of cultiva-  
tion there as in Pennsylvania. Now, sir, on the  
other hand, the State of Maryland, which has  
the *enviable* advantage of a branch bank of the  
United States, in addition to her immense capital  
in State banks, has not as yet progressed to that  
high state of cultivation witnessed in Pennsylva-  
nia. This, more probably, proceeds from the tem-  
per, habits, and climate, of her population, than  
from the cause assigned by Mr. P.

We are told, Mr. President, there is a prodigi-  
ous scarcity of money in the great cities. Money,  
Mr. President, like every other commodity, will go  
where it finds its best market ; and if, in the State  
of Virginia, there be a better market than in  
Philadelphia, there will it go, and there it has  
gone. In Virginia they have what will command  
money, wheat and tobacco ; and the merchants  
from the great cities were obliged to go there for  
those products, where they could buy cheaper  
than they could at home. What was the conse-  
quence? Money went where it found the best  
market, and that was in Virginia ; the fact is  
proved from the quantity of specie in their bank.  
There is no scarcity of money in South Carolina,  
where merchants were obliged to carry their  
money for the article of cotton. A scarcity of  
money results from a scarcity of means of acquir-  
ing it. From the large cities we have exported  
all, or a great proportion of our means, and we  
cannot get back the money for want of the usual  
sale of bills of exchange ; and thence results the  
great scarcity of money in those cities. It is in  
vain to tell me, as I have heard in the course of

the discussion, that United States paper is the  
only universal medium. In the interior we find  
the paper of the State banks, and of the State  
banks alone, in circulation.

In the animadversions of the gentleman from  
Massachusetts, in order to enforce his argument  
and to show the danger which will result to  
State banks, he brought forward an example  
very strong in point, viz : that an agent of one of  
those banks sent here for the purpose of obtaining  
those deposits had decamped from this city on  
hearing of the failure of a great broker, which  
endangered the bank, of which he was a director,  
to such a degree as to depreciate the value of its  
stock twenty per cent. [Mr. LLOYD said he had  
stated it as a rumor, for the authenticity of which  
he would not vouch.] I was going to say (ob-  
served Mr. S.) that, from the high opinion I en-  
tertained of the delicacy of that honorable gen-  
tleman on every subject touching the credit of a  
bank, I was convinced that, unless he had proofs  
as strong as those of Holy Writ, he would not  
vouch in such a case ; that he would be cautious  
in giving such a thing as truth, unless he knew it  
of his own knowledge. As to the statement  
which he made, there must have been some mis-  
take. One week before the gentleman in ques-  
tion left this city, he gave notice that he should  
go away on Thursday. He did go on that day,  
and had previously applied to the Secretary of  
the Treasury for a share of the deposits of the  
Government, and produced a report from his  
bank to show the substantial character of the Me-  
chanics' Bank. The account of the failure of the  
broker, Mr. Judah, did not arrive until two days  
after the gentleman alluded to had left this city.  
He could not, therefore, have returned to New  
York on that account. What is really the fact?  
The Mechanics' Bank of New York stands on as  
substantial a foundation as any bank in the Unit-  
ed States, and has, in proportion to its stock,  
more specie in its vaults than any bank I know,  
except that of Virginia. Mr. Judah did fail ; but  
the stock of the bank did not experience a more  
unusual fall than that of other banks. The great  
failures at that time staggered every man for his  
own safety. The banks looked around with cau-  
tion. The value of the stock in every bank ex-  
perienced a depression. At that moment the  
Mechanics' Bank paid its dividend of  $4\frac{1}{2}$  per  
cent., and the stock which was worth 20 per cent.  
above par did go down to  $15\frac{1}{2}$  per cent. What  
was the loss, at any rate, sustained by this great  
broker? The Mechanics' Bank, I understand,  
will not lose two thousand dollars by all the fail-  
ures ; by Mr. Judah not a dollar. On the contra-  
ry, they have money to pay him. I mention this  
fact to show that we should be extremely cau-  
tious indeed in placing reliance on facts of this  
kind, from sources over which we have no con-  
trol.

We are called upon, sir, to believe that the  
borrowers at New Orleans are less safe than else-  
where. I had thought they were more safe, be-  
cause they have more valuable produce to export ;  
because they have more specie among them than



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in any other part of the Union; and because the people of the whole Western country send their products there for sale, and do not press the merchants too much in return. One reason has been assigned (by Mr. LLOYD) why we should renew this charter, that, in this city, loans have been made to the amount of \$400,000, which are expended in canals, houses, bridges, and improvements; and we must renew the charter to enable those people to go on. That reasoning, sir, has no influence with me. There has been one prodigious mistake in all this business. It is taken for granted that the merchants cannot pay their notes at bank, unless they obtain new discounts. This would be to say that they were carrying on trade without any other than bank capital. The loans in Baltimore on made paper are a mere drop in the bucket compared with the extensive trade of that city. A great proportion of the notes which the bank reports as payable are on *bona fide* sales. The borrower does not depend on any loans from banks to meet them, but draws on his own means to pay such notes. But there are in all banks what is called negotiable paper. We borrow from the bank a stipulated sum, and understand that, unless the bank is hard pressed, it will continue the renewal of notes to take up that stipulated sum. A note is signed by A, and endorsed by B, for which no property is paid; it is a mere note of accommodation. That note, when it comes due, is not expected to be paid, unless by a renewal with the same endorser, or, if the endorser becomes bad, a good one. Thus, a director of the bank will have discounts to the amount of \$37,000 renewable at bank. He cannot get more unless on real paper. Our banks do not dare to discount beyond their means, because they are obliged to pay cash for every legal demand. The gentleman from Kentucky has told us that two or three importing States may be benefited by the dissolution of the bank. I will not answer the argument; it is such a one as can go only to disunite, to create envy and jealousy. I would not resort to that kind of argument, and I will not permit myself to answer it.

We are called upon, in a manner extremely impressive indeed, by the gentleman from Massachusetts, to hearken to the information received from the committee of mechanics and merchants now here from Philadelphia. I am well informed, sir, that both those committees were composed of very respectable men, some of them Republicans; and it is said that they complained of a very great scarcity of money, and that trade was not brisk. I will ask them, sir, if they ever knew trade brisk in January or February? It is precisely the same at Baltimore as at Philadelphia; when the rivers are frozen, we wind up our books and do not expect to do business.

One of those gentlemen stated that he always found a convenience in having his notes discounted in the Bank of the United States; and if he could not get it there, he applied to a friend who discounted notes that had a longer time than two months to run. It is a possible case that these persons may have been very much

employed in building houses for one of the directors of that bank. It may have been the case that that director accommodated him by discounting his paper at a longer time than sixty days. This kind of employment between man and man has a wonderful influence on the mind of man; and he who receives a benefit is willing to return it in some way or other. Mr. Grice appears to be a very worthy mechanic; but I am sorry that he should be obliged to say that those who contracted with him were afraid that they could not comply with the contract on account of the difficulty occasioned by the non-renewal of the charter; and yet he told us that the Bank of the United States still discounted its usual quantity of paper. I am sorry to see that the merchants of Philadelphia, great and respectable merchants as they are, make contracts for ships and tell the shipbuilder that they are obliged to depend on discounts for payment for the ships. I did not expect this was the case there; and will venture to say it is not the case in many other places.

One of those gentlemen tells us he had to pay one and a half per cent. per month for money. Sir, he got the money very cheap. When one gets into the hands of the shavers, or what the gentleman calls only discounters, if he gets out for  $1\frac{1}{2}$  per cent. per month, he is not coarsely shaved. It is not an uncommon price. Money is worth what it will sell for, and in Philadelphia, shaving and discounting is considered as honest and fair as any other commercial transaction; that is, to pay and receive more than legal interest. It is not there considered as dishonorable or improper, whatever it may be in Baltimore.

It is the belief of this committee of merchants that in consequence of the non-renewal of the charter, flour fell to  $\$7\frac{1}{2}$  in Philadelphia. Now this, sir, is one of those good strokes, those excellent things, that the friends of the bank use to deceive and influence the agricultural interest with. It is, therefore, brought home to the farmers in Congress. I state this, to show how cautious gentlemen ought to be in suffering their minds to be impressed with these statements. The fact in this case is not as stated. The moment at which flour fell was on the receipt of an account from Liverpool of its having fallen to 56s. per barrel; and that there was no demand for consumption. What was the consequence? Fifty-six shillings a barrel will not allow more than  $\$7\frac{1}{2}$  to be given here; so the price of flour fell. These gentlemen also informed our minds further; that a demand from a British house for Lisbon was not executed by a house in Philadelphia from the want of funds. This may be true; but a great portion of that very order has been actually executed at Baltimore, at ten dollars per barrel, payable in bills of exchange at a fair discount of ten per cent. The ramifications of commerce are such that no one who is not daily conversant with them can know them. There was no occasion for a fall of flour, because the ports of Cadiz and Lisbon were still open;

but there was a momentary apprehension that Massena had got into Lisbon, and commercial men were for a moment afraid to let their property go to that market. This lasted but two or three days; it lasted just as long as the terror of the non-renewal of the charter of the Bank of the United States will last. The gentlemen who were sent on here happened to come at a favorable moment to scare us with the depression of flour. But before the question is taken we learn its rapid rise again to the former prices.

Our minds have been alarmed by a representation of the immense influence which the Secretary of the Treasury will have over the banks to whom deposits are given. I should have no objection whatever as to myself, that the collector of every port should be *ex officio* a director of the bank in which deposits are made; and as to the argument that such a power would enable a Secretary of the Treasury, if he were a bad man, to injure individuals, it is not worthy consideration. No Secretary would dare to take such a course; the thing would be proclaimed here in such a voice as would make the offender decamp with precipitation from his office.

The report of Mr. Orr, one of the mechanics, I had like to have forgotten. He says, all confidence between man and man is destroyed. My letters, sir, say that all confidence is not destroyed, but in those whose rashness has been the cause of their forfeiting all title to it. In order to strengthen Mr. Orr's argument, we are told that the price of hemp is fallen. That is true; but what does the fact prove? Not that the approaching dissolution of the Bank of the United States has caused it; the reason is, that the arrivals from Russia are more numerous than ever before recollected. Every vessel that comes from Russia brings hemp. Again, our good friends to the westward and in Virginia have commenced the culture of hemp, and carried its production to an extent nearly equal to our consumption. Add to that cause, that the demand is much lessened by the destruction of our shipping. We build few ships now. We ought not to rely on these facts; they result not from the dissolution of the Bank of the United States, but from the course of trade.

I have before taken occasion to remark that certain mechanics were here, respectable men, who would have come forward if I had wished them; they would have told you that they did not rely on the Bank of the United States at all, but on the State Banks, for accommodation. I stated that one of those gentlemen thought the renewal of the charter would have an unfortunate effect on the politics of the State of Maryland. The party to which they belonged had twenty years ago declared the charter of the United States' Bank to be unconstitutional; they were in earnest when they declared so. From these circumstances, a renewal of the charter at this time would go to convince the people that the struggle of parties was nothing but a business of ins and outs, and not depending on principle. For myself, sir, the question never came before

me on a Constitutional argument before; and I do confess, as my friend from Kentucky says, that I was not very squeamish on the subject. But the able arguments of my friends from Kentucky, Tennessee, and Virginia, have made a very serious impression on me indeed, and have almost brought me to think that if there were no other objection I should vote against the bill on the Constitutional question alone. But my mind has received a wonderful impression indeed from the arguments of the gentleman last up (Mr. POPE.) He carried his doctrine of construction so far that it appeared to me that he regarded no other part of the Constitution as binding but the preamble. In support of his doctrine he brought forward the example of the State of Connecticut, which State has no written constitution. It appeared to me, sir, that the gentleman's arguments, if valid, reduced us precisely to the situation of Great Britain, to look for our Constitution in laws, precedents, and parliamentary construction, to have no written guide. My mind became alarmed; and hereafter I shall be very much afraid to give my consent to those kind of constructions about which I have not heretofore been very squeamish.

I have taken up the time of the Senate to an extent at least equal to anything I had intended, and beyond that which many gentlemen no doubt think I ought to have occupied. I have not wished to prolong my discussion to an unreasonable length, and shall, therefore, leave untouched some points I had intended to have noticed. I am unwilling to trespass on the patience of the Senate; because I am well aware that unless this bill passes speedily, it cannot pass at all. Aware of that, I was willing for one, and so were all the gentlemen with whom I act, to take a silent vote on the principle, so as to have given full time to gentlemen who brought forward the bill, to have gone through with its provisions. But another course, that of discussion, has been thought proper to be pursued, and I have deemed it proper to express my sentiments.

Mr. S. concluded with hoping that he had not said anything to wound the feelings of gentlemen in opposition to him, for whom he had great respect. If anything he had said had hurt the feelings of any one, he hoped to be believed when he assured them that such was not his intention.

Mr. POPE.—Mr. President, instead of interrupting the gentleman from Maryland, I preferred to correct him after he had finished his speech. I have examined the Journal, and cannot find that any question about extending a branch to Kentucky was made; but I have a very perfect recollection of my views and impressions in relation to the bill. That bill provided that six millions of the capital should be divided among the States, to be subscribed and paid by the States within a given period. I was aware that the rich moneyed States on the seaboard would subscribe, but did not believe the new States would tax the people to raise the money. In order, therefore, to diffuse the in-

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terest and influence concentrated in this moneyed institution, and thereby preserve to each State, if the bill passed, her due weight in the Federal Union, I proposed an amendment to this effect: that the capital should be limited to twenty millions—that is, ten millions in addition to the present stock—four of which, as provided in the bill, to be subscribed by the United States, and six millions to be divided among the States, and paid out of the national Treasury. If my plan had been adopted, and a branch extended to Kentucky, the dividends made on the capital employed there would have gone into the treasury of the State. It has been a favorite policy with me to produce a unity or consolidation of interest in this nation. With that view, I have advocated the encouragement of manufactures, and the appropriation of a portion of our funds for the improvement of the interior by roads and canals. Upon the same principle, if the bank bill had been permitted to assume the shape I proposed to give it, I should not have been hostile to its passage. A consolidation of interest is necessary, perhaps indispensable, to give strength and permanency to this confederated Republic, and free it from the dangers and evils consequent upon a consolidation of power. I have several times expressed my opinion on this floor in relation to a consolidation of power. We ought to guard against it. Under this impression, I have been opposed to extending the coercive agency of this Government upon the people of the interior. Upon the same principle, I have approved the repeal of the internal taxes, not so much on account of the sums demanded from the people, but because I think it difficult, if not impossible, to have such a system, requiring so much Federal agency, well managed by one Government over this immense country.

Mr. BRENT said he had not the vanity to believe, after the subject had been so fully discussed, that he should be able to shed any new light on it; but having been instructed, by the Legislature of the State which he had the honor to represent, to vote on Constitutional principles against the bill under consideration, and as he was reduced to the painful necessity of going counter to those instructions, it seemed to him to be indispensably necessary that he should submit to the Senate the grounds on which he acted. It is (said he) a most painful situation in which I stand in relation to the Legislature of Virginia, in being compelled to vote in opposition to their will, more especially as it is a prevalent opinion with many whose opinions are entitled to great respect, that instructions are obligatory on a Senator. This question is one which has never been settled, or even fully deliberated on. Instructions, when heretofore given to Senators, have generally been in accordance with the sentiments of the Senators, and only given to add the greater weight to their opinions. If called upon definitely to pronounce with regard to instructions on questions of expediency, I might be under some difficulty as to what course to pursue; because, although here is no clause in the Constitution to that

effect, I am under a strong impression that, according to the principles of our Government, there is much reason to believe that the respective State Legislatures should have such a right; but on a Constitutional question (whatever may be the right of the State Legislatures in other instances) the right of instruction may be denied, in my judgment—that is, so far as to be imperative on the Senator. To give a vote in such a manner as in his estimation to inflict a vital wound on the Constitution, is more than the Legislature of Virginia, or any other State Legislature in the Union, can compel me or any other Senator of the United States to do. The resolution of Virginia is bottomed, not on the ground of inexpediency, but on the principle that the Constitution prohibited Congress from granting the bank charter in the first instance; that it now prohibited it, and therefore, because it was unconstitutional, the Legislature have instructed their Senators in Congress to oppose it. Now, sir, although I shall not immediately and directly violate the Constitution by voting against the bank, yet, if I vote against it when I believe it Constitutional and necessary, it must be known that I vote in conformity to the instructions of the Virginia Legislature; and so far as my vote goes, it will warrant and sanction that interpretation of the Constitution which the Legislature of Virginia has given—which interpretation, in conscience, I believe to be erroneous. Therefore, though in ordinary cases the instructions of a Legislature may be imperative, (I will not determine that question,) I conclude that they cannot be so when they require of a Senator to commit either a positive or implied breach of the Constitution, or to vote in such a manner as to warrant such interpretation of the Constitution as will deprive it of an essential attribute. Virginia has the physical force, but has she a moral right to violate the Constitution of the United States? If she has it not, can she give it to her Legislature? If her Legislature possess it not, can they give it to a Senator? Can the Legislature give me a moral right to violate the Constitution of the United States, which I have sworn to support? I believe not, sir; and that, in the situation in which I stand, their instructions ought to have no operation on the vote I am to give on the subject under consideration.

To illustrate this question more fully, let me inquire if a State Legislature should instruct its Senators to vote for a law to take away the trial by jury in a criminal prosecution, would a Senator, thus instructed, who has sworn to support the Constitution of the United States, consider himself conscientiously authorized to vote for such an unconstitutional measure? When a Senator is elected, he is entitled to hold his seat for six years. Suppose that, immediately after he is elected, the State from which he is sent gets into a state of direct opposition to, and insurrection against, the General Government, and should continue so for the whole six years for which the Senator is elected, does this vacate his seat? Will he not still remain in the Senate of the

United States, and, if he does his duty, vote for all measures that may be necessary to restrain the unconstitutional acts and insurrection committed by his State? Either instructions on Constitutional questions to a Senator are imperative, or they are not. We admit that a Senator retains his seat in the Senate, even while his State is engaged in actual insurrection and rebellion, and consequently in the continued violation of the Constitution of the United States. While a Senator engages in the deliberations of this, the highest Council of the nation, is he to obey the instructions of a State Legislature who are in the daily violation of the Constitution of the United States, and are endeavoring wholly to destroy it by open and declared insurrection; and which Legislature will, consequently, instruct their Senators to pursue such a course as will best accomplish the object it has in view? In this dilemma, if instructions are imperative, which, if obeyed, violate the Constitution, a Senator will retain his seat in the Senate of the United States for the express purpose of using every means in his power to destroy that Constitution which he has sworn to support. Can it be imagined that it was intended, in any state of things, that a Senator should hold his seat in the Senate of the United States for the sole purpose of doing all he could to overthrow the Constitution? Since so absurd, monstrous, and dangerous a principle would result from admitting the mandatory influence of instructions, when they touch Constitutional questions, I deem it my duty not to give my acquiescence to, or by my example sanction, a doctrine so hostile to the general spirit, and so unfavorable to the preservation, of the Constitution of the United States.

Much therefore as I respect the sentiments of the Legislature of Virginia, and much as it distresses me to go in opposition to them, I believe I shall do so on the present occasion. With respect to the alarm expressed by some gentlemen, from the large States coming forward and instructing Congress, I am satisfied that no such insidious motives are justly attributable to the Legislature of the State which I have the honor to represent; I am satisfied that its motives were honorable, pure, and patriotic, and this measure is a testimony of the consistency of character of the State. When the charter of the Bank of the United States was first granted, the general sentiment of Virginia was, that this law was contrary to the Constitution of the United States. Under a different state of things, and under the domination of a different political party than at the present time rules the affairs of this country, she preserves a consistency of character. Believing the bank to be unconstitutional then, she now entertains the same sentiment as when in the minority, and, with an honorable consistency of character and anxiety to preserve the Constitution inviolate, she had sent forward instructions to her Senators in Congress. Whilst therefore I appreciate the motive which gave existence to these instructions, and highly respect the source whence they come and the high consideration to which they are en-

titled generally, I do not on the present occasion consider them obligatory as to the vote I am about to give.

In considering this question, I will take it in a three-fold view:

1st. Whether, on the first promulgation of the Constitution of the United States a right did appertain to Congress to establish a bank.

2dly. As respects the Constitutional question, whether, on an adjudged case and one long practised on, it has the same weight as if original?

3d. Whether, admitting that at first the bank was improper, because not necessary, it be not now proper, if it can be proved almost indispensably necessary?

The first question, whether the General Government, when it first came into operation, did not possess the power of creating a National Bank, is the primary object of investigation. In objection to this it has been said, that to carry into effect an enumerated power is one thing, and the right to incorporate a bank is a distinct power. Those who take this ground say that the creation of a National Bank is an original, independent, and substantive power. It is not sufficient, say they, to show that it is a convenient instrument to carry into effect an enumerated power, because it is an independent authority of itself, and the genius of our Government prohibits the derivation of any powers by implication with scrupulous limitation. It is true, sir, that our Government, being an emanation from the existing State governments, the rational construction is, that all power not given away is retained to them or to the people. If that construction does not result, then a positive amendment, which has been made to the Constitution, has infused this principle into it. I therefore admit in its fullest latitude the construction that all powers not given away are still retained; yet I still contend that even in a Government like ours, there are some resulting powers. Or by what right do we create a military school? We have a right to raise armies; but we can have an army without a military school. Yet it is Constitutional to create such an institution, because every given power implies rights inferior appertaining to the powers granted. We lay an embargo—is there any clause in the Constitution authorizing us to lay embargoes? No, sir; we have a right to regulate trade, and we have a right to lay embargoes to protect it. We have a right to provide for arming and disciplining the militia. Under this authority we build armories. Is there any provision in the Constitution directing it? We have erected forges and even purchased ore banks. These are inferior powers, necessarily resulting from the greater powers granted. But here gentlemen find the great difficulty. The creation of a corporation, say they, is an act of sovereignty; it cannot be used as a mean, because it is a sovereign act. Why, Mr. President, every law passed is *quo ad hoc* a sovereign act. A law incorporating a military school is as much an act of sovereignty, as to the particular subject to which it relates, as an act incorporating a bank. We create a military school—for what

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purpose? Because the sovereign authority has power to establish an army, and the power to create a military school is inseparably connected with and necessarily appertains to it. We establish a navy—we also establish a marine corps. There is no clause in the Constitution giving that power, but we take it as inseparable from the power to create a navy, because the exercise of the greater implies every subordinate power necessarily connected with it. The great stumbling block, however, is, that this is one of those independent, original, and substantive powers, which cannot be given by implication. Blackstone says, “municipal law, thus understood, is properly defined to bear rule of civil conduct, prescribed by the ‘supreme power in a State, commanding what is ‘right and prohibiting what is wrong.’” Agreeably to this definition, every law passed by a deliberative body is an act of sovereignty as to the subject to which it relates. The establishment of a marine corps is as much an act of sovereignty as an act incorporating the Bank of the United States. The only question is, whether it be necessarily incident to the enumerated powers given to the General Government. Those who criticise most accurately on the Constitution and most unwillingly concede resulting powers, will admit them to a certain extent even in our Government. The only question is the immediate and necessary connexion of the means used with the object intended to be attained.

In inquiring then, sir, whether or not, at the first promulgation of the Constitution, when it came into existence, it was intended that Congress should possess the power of incorporating the Bank of the United States, let us inquire whether there was any possibility of carrying into effect with any tolerable convenience and advantage the several provisions of the Constitution, unless this power exists. It is said that you do not possess the power, because it is attempted to be derived by different gentlemen from so many different parts of the Constitution. Now, Mr. President, I have never before understood that a capacity to derive a title from several different sources gives you less title than if derived from one source alone. I derive the power from the whole context of the Constitution, although gentlemen seem to think that the title is invalidated in proportion to the number of sections in the Constitution from whence we derive it. In order to avoid confusion of argument in examining this question, I will derive it from only one source at present, though I believe others equally give it by a necessary construction. At the time the Constitution came into existence, I believe there were but three banks in the United States; none south of Philadelphia, and all of very limited capital. The Constitution of the United States gives the power to levy and collect taxes. Is it possible to imagine any system so convenient for the collection of this revenue, and sending it to the seat of Government, as that of the agency of banks? I am not inquiring whether the State banks can do it; but I say that the framers of the Constitution must have had under consideration

the state of things at the time when the Constitution came into existence. At that time there was not one bank south of Philadelphia, and the banks which existed were very limited in their capital, and their paper had limited circulation. Congress, in such a state of things, then, has the power of levying and collecting taxes conferred on it, and yet Congress has not the power to create banks to aid in the collection of its taxes, notwithstanding a clause to make all laws necessary and proper for that purpose is contained in the Constitution. No gentleman will say that the agency of banks is not necessary in some way or other in collecting the revenue. I admit without them you could have carried on our fiscal arrangements in an awkward and cumbrous form, but was that the intention of the Constitution? When the power to collect taxes was given, it was intended to give all the means necessary to carry this power into execution. It was not to execute this power in a cumbrous form, but with the greatest facility with which the power is susceptible of being wielded. Now, is it possible that the Constitution contemplated that the revenue should be collected and transmitted here, subject to all the risks and accidents and inconveniences that attend the transportation of specie? It is impossible. But all this doubt has arisen from its being a separate and independent power, although it is no more of that character than any other law passed to execute the enumerated powers of Congress.

In a word, Mr. President, it is admitted by all who have spoken on this question, whether for or against the bill under consideration, that the agency of a bank or of banks affords the greatest facility and security of any plan that can be devised for the collection of a revenue, and for its transmission to your Treasury.

It is admitted that no bank or banks of a capital or of sufficient circulating paper throughout the United States adequate to this object, did exist when the Constitution was first formed, promulgated, or adopted. It is admitted that to levy and collect taxes is one of the enumerated powers of Congress. It is admitted that Congress has all power necessary and convenient to carry its enumerated powers into execution.

It is admitted there is no express clause in the Constitution prohibiting the establishment of a National Bank.

If these principles and facts are admitted, does it not demonstrate, beyond the possibility of doubt, this unquestionable result, to wit: that as Congress is to levy and collect revenue; that as the agency of banks affords the most certain, speedy, and convenient means by which a revenue can be collected; that as neither, at the period when the Constitution was made, promulgated, or adopted, banks of sufficient capital, or with paper of sufficient circulation, existed for the collection of the revenue, and its transmission to your Treasury; that as there was no positive clause prohibiting a National Bank in the Constitution; that as Congress was to have all power necessary to carry its enumerated powers into execution; that as the convention who framed, and

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the people who adopted the Constitution, must have had in view our then existing institutions, and the then general state of society, it was the intention of the convention who formed the Constitution, and the people who adopted it, to give to Congress the power of establishing a National Bank. If at the time of adopting the Constitution it was necessary and proper that Congress should possess it, for the exercise of any of its enumerated powers; if the foregoing result is undeniable, and I think it is, I would interrogate, if Congress, on the adoption of the Constitution, possessed a power to establish a National Bank, what has since deprived that body of the power? I, Mr. President, can discover nothing which has. One argument, much confided in by gentlemen who have opposed the present bill, is, not that banks are not necessary to the collection of the revenue, but that State banks will answer. In return, I insist that no State banks did exist when the Constitution was first formed, therefore the power to create a National Bank is necessarily given in the power to levy and collect taxes. To this it is replied that to create a National Bank is to legislate by implication; it is a separate, substantive, and independent power; to levy a tax is one thing, to make a bank another. I answer, to levy a tax is one thing, to create an officer for its collection another. By this kind of chop-logic we may prove anything unconstitutional. I ask, when you levy a tax, if you do not provide officers for collecting it. I levy a tax and create a bank through whose instrumentality I mean to collect it; from the same authority by which I appoint a collector, I have a right to create a bank through whose instrumentality I mean to receive and transmit it. There is no clause in the Constitution saying you may appoint officers for the collection of the revenue specifically; but the right to appoint officers to collect revenue is derived from the power of levying a tax, from which also may be derived the power of establishing a bank, if it be the best mode of collecting the revenue. It is said you may collect this tax by means of the State banks. Very well, sir, I say you may collect the revenue by means of State officers, and upon the principle that you cannot establish a bank to collect the revenue, because the State banks can collect it, I say that the State officers can collect our taxes, and if your argument is just, you cannot appoint any other officers. The Constitution authorizes the President to appoint persons to fill all offices established by law, but says not a word about appointing officers to collect the tax you levy specifically. Upon the construction gentlemen contend for, they might say, because no power is expressly given to appoint officers of the customs, or for your taxes, and it is possible to collect the revenue by the agency of the State governments, and nothing should be done by the United States authorities which can be done by the States, therefore these collectors of the customs or revenue should be such as are appointed by the States for State purposes. This kind of reason-

ing, sir, cannot be admissible, and is in hostility with a most manifest principle of the Constitution, as it is evidently a prominent feature of that instrument that the General Government should have within itself all those powers necessary and convenient for the execution of its enumerated trusts, entirely free and independent of the interference and agency of the States, their officers, or ministers.

It has been triumphantly demanded by some, whether we could create a trading company. I have not a doubt on the subject. If it can be demonstrated to me that commerce would be benefited by the incorporation of a mercantile company, that it is indispensably necessary to do it to regulate trade to advantage; under such circumstances I have no doubt we can create a company, for the creation of a company is no more the exercise of a separate independent authority than any law which we make when legislating under our enumerated powers. If it be inquired whether or no we could incorporate a company to cut canals through the States, I answer that there is in the Constitution a clause authorizing Congress to regulate trade between the States, and under this clause we could do it with the consent of the States. We could not do it without, and I derive this construction from the Constitution itself. It is a fair mode of construction laid down by professional men, that where there is intricacy or difficulty in the construction of any legal instrument, you must take the context together; one part of the instrument must be used to elucidate another; the different parts must be compared, and the true construction thereby obtained. In the 8th section of the first article, a power is given to Congress "to exercise exclusive legislation, &c. over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." I discover here that the Constitution, in order to preserve the sovereignty of the State governments, has been exceedingly vigilant in guarding their territorial rights. Therefore, where a power is given to the General Government interfering with the territorial rights of the States, there is a clause in the Constitution saving territorial rights, and requiring the consent of the States to its exercise. If, therefore, Government, in the exercise of its enumerated powers, is restrained from acting, where their acts affect State territory, unless with the consent of the States, I infer that we have not a right to incorporate canal companies without the consent of the States through which the canal is to go. With this limitation I have little hesitation in saying that we have a right to incorporate canal companies.

It is said that the corporation, which it is proposed to recharter, independent of the facility it affords to Government in the collection of the revenue, has also particular advantages given to it; that it is a monopoly; and what right, it is asked, has Congress to grant a monopoly? I will ask, in return, when an officer is appointed to

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collect the customs, has he not a salary and emoluments? Is not every office in law called a franchise or a particular privilege? If the officer who has these emoluments, privileges, or franchises, (call them what you will,) receives these in consideration for his services, have you not the power to hold out inducements to associated bodies of men to form an institution from which the public may derive benefit, not with a view exclusively to their monopoly and benefit, but on account of the advantages to be derived from it by the public?

If it is urged that instead of this incorporated company, you might appoint officers in the different ports of the States in which the greatest duties are collected, and issue notes, or bills of credit, which are made current, without creating a bank authorized to make discounts, I admit we might; but if we believe it not so convenient and safe a way of collecting our revenue as through the agency of a bank, we have the right to associate men in a banking company for this purpose, and give them particular privileges, upon the same principles that we give privileges or franchises to every officer we appoint; and although we thus confer in both instances privileges, it is done for the public good, because the object to be effected can be accomplished by no other means so effectually. If you want an association of men in a particular manner, to make them subservient to some political use, you have authority to give to those associating men whatever privilege may be sufficient to induce them to associate for this purpose. You do not give them this privilege for their own individual advantage, but as the lure, the bonus for association, by which association the public object is effected. I would ask whether Congress could not to-morrow pass a law authorizing the President to open a negotiation with Hope and Co., saying, we have full confidence in you, and you shall be the United States' bankers? This may be said to be a monopoly; but, if Congress were convinced that this was the safest means of collecting the revenue, I ask where is the clause of the Constitution which, in substance or words, prohibits Congress from adopting such a measure? If there be no clause to prohibit this, there is no prohibition to the passage of a law for incorporating individuals in an association from which the greatest possible facility in the collection of the revenue is expected. In a word, sir, it appears to me that the only rule in an instance of this kind is, to take care that the means used have a necessary reference to the object of the power. When legislating on the enumerated powers of Congress, the only limitation is an inquiry whether the means we are about to use necessarily relate to the effectuation of the object in view. For instance, I should consider it a violation of the Constitution, if Congress, under the power "to make rules for the government of the land and naval forces," should pass a law regulating military testamentary devises; because the incident is too remote, it is too great a stretch of power, the constitutionality or unconstitutionality

being regulated by the relation of the means to the object to be effected. If this reasoning be just, then, this question is not soluble by the mere determination of the question whether or not this is the best system by which our revenue can be collected; we must, to insure its rejection on Constitutional grounds, prove that the power of establishing a bank is so remote from the object of collecting the revenue, as to have no connexion with it. Admit that a better system of collecting the revenue can be devised, than by the establishment of a bank; it does not follow that the bank is unconstitutional. The only question is, whether it is so remote, as that by no satisfactory process of reasoning you can prove its analogy to the collection of the revenue. If it be shown that a better system could be adopted, it only proves that this is inexpedient; not that it is unconstitutional; and, sir, it has been a matter of astonishment to me, that, notwithstanding it was so universally believed some time since that the agency of the bank was excessively conducive to the prompt and regular collection of the revenue, it is now discovered that its agency is unnecessary. The gentlemen who are now of this opinion thought otherwise formerly, and the Secretary of the Treasury, who is best enabled to decide the question, is of a different opinion from them.

In answer to those, sir, who say that State banks afford the facility necessary to the collection of the revenue, I would ask, is the General Government to be dependent on the State banks for the collection of the revenue? Or do gentlemen believe they would be as secure and responsible as the Bank of the United States? As to the remark that in those States where there are no banks the revenue is collected with as much facility as where there are banks, I would reply that where there are no banks there is nevertheless bank currency in circulation. Where the States have no banks of their own, the notes of the Bank of the United States are in circulation and the customs paid in those notes. A National Bank, I am under a strong conviction, is, if not indispensable, highly conducive to a convenient collection of the revenue; and if this bank be put down to-day, before a long interval of time we shall have another bank. In my estimation there ought to be a bank whose paper circulates freely throughout the States; other paper will answer the same purpose. I recollect to have been travelling where I had in my pocket-book five hundred dollars in good bank notes; and yet I was compelled to trespass on another gentleman in company with me to bear my expenses. If the notes I had with me had been notes of the Bank of the United States, they would have circulated freely, because the merchants gladly receive them from the planters for the purpose of remittance, &c., but it always will be otherwise with State banks. From their nature they cannot give that general circulation which is derived from a general bank.

The honorable gentleman from Kentucky, (Mr. CLAY,) with his usual ingenuity, spoke of the

enormous evil and the danger to our liberties that is to be anticipated from giving the power to erect corporations, which he says is an original power, and has given being to institutions which have swelled to an enormous magnitude. The example of the East India Company and the South Sea Company were spoken of in an alarming, impressive, and ingenious manner. But, I ask, sir, if the State governments do not possess this gigantic power? I see nothing to restrain them more than the General Government. I see that the only supervisors as to the State governments are the people themselves, who are also the supervisors of Congress, who have also the invidious jealous eyes of the State governments constantly upon them, as is illustrated in the conduct of some of the States on this very question, and who combined would guard this power from abuse by the General Government much more than the people alone will guard against abuses by the States. It is a visionary mode of reasoning to argue against the possession of power from the abuse of it. The gentleman may as well tell us that we may raise armies to so monstrous an extent as to crush our liberties; and, therefore, we ought not on any emergency to raise an army. He may as well say the creation of a military school, which is as much and no more a resulting power than the one in question, is giving to Congress a great substantive independent power to create a vast engine, under the name of a military school, which may swell to such an immense importance to make it an instrument to swallow all the liberties of the country. So as respects sites for forts and armories, and ore banks, powers exercised by implication, the gentleman, from the unlimited indulgence he gives to a gloomy and foreboding imagination, may say, you may purchase the territorial rights of the States until you destroy their sovereignty. There is no end to the extent of such reasoning. We must rely in some degree on ourselves, on the vigilance of the State governments, and on the discretion of the people. When the whole body politic is so corrupt that there are no eyes on our rulers to see when they transcend the powers of the Constitution, all is lost, and no paper reservations can save us.

From this reasoning, sir, I again reiterate that I conclude that when the Constitution was formed and promulgated, it was the intention of the framers of the Constitution and of those who adopted it, in the powers they gave to the Congress of the United States, to include that power, and establish a bank if such an institution was considered convenient, necessary, and proper to carry into execution any one of the enumerated powers conceded to the General Government; and, if it was Constitutional then, it is equally so now.

In the course of the very elaborate and able speech delivered by my colleague a few days past on this subject, he stated these two positions; that a right to grant charters of incorporation is not of a description of character similar to, and has no analogy with, any of the enumerated powers of Congress.

2d. That the right to grant charters of incorporation was a distinct and sovereign power, equal in itself to any of the enumerated powers granted to Congress.

As to the first position, that the right of creating corporations or banks has no analogy to the enumerated powers of Congress, permit me to observe this is begging the question, or rather entirely evading it. If it is admitted by every one (and this has been admitted) that banks afford the greatest facility of collecting your revenue, and you have a right to avail yourself of the best means to carry into execution your enumerated powers, the right to create banks has an immediate connexion with and grows out of the power to levy and collect taxes, which brings this merely to a question of expediency.

His second position was, that the right to create corporations or banks was a distinct and sovereign power, equal in itself to any of the enumerated powers of Congress; that it wants that connexion, affiliation, and subserviency, to some enumerated power, which is necessary to give a power by implication. I know not that a law granting a charter of incorporation is more an act of sovereignty than a law passed on any other subject. That it is a power, original, independent, and of itself equal to any one of the enumerated powers, cannot be admitted, because it has not been contended by any that Congress possess the power of creating corporations at all times and in all instances. It is only contended to be proper and Constitutional when it is used in subserviency to the enumerated powers of Congress, as the means best calculated to carry any enumerated power into execution. The right of creating incorporations for this purpose only, and under this limitation, can never make it a power equal in character and magnitude to any one of our enumerated powers, because if it is used as a mere subservient instrument to them in that point of view—if it can be demonstrated that they are a convenient means to effect a legitimate object, my colleague must admit their constitutionality, because he has emphatically dwelt on that clause of the Constitution which gives to Congress the power to make all laws necessary and proper; and to those who apprehend that this power may be abused and Congress may attempt to exercise it in instances not within the pale of their legitimate authority, I answer they may also abuse any other power they possess. The only preservation is the virtue of our Legislature and the vigilance of our people.

The next point which remains to be investigated is, whether the constitutionality of the bill under consideration receives any support from its principles having been sanctioned by any former laws and measures of the Government.

Mr. President, I am ready to admit that where a measure obtains, that inflicts a violation on our Constitution that is unquestionable, palpable, and notorious, however frequently and however solemnly this measure had been sanctioned, however long it had been submitted to and endured, would not be considerations with me of any importance



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or create one moment of doubt. Error, however repeated and submitted to, is error still, and every occasion should be sought to get rid of it; but on an occasion in the origin of which the Constitutional question was doubtful, when men of the purest integrity and most illumined intelligence might pause and differ and doubt, I should imagine that such case once acted on should never again be touched, unless considerations of irresistible importance lead to such a measure; and I imagine that every man of candor and intelligence who weighs with due deliberation the question under consideration, will at least admit, if the measure is not certainly Constitutional, it is at least of that description of character I have last mentioned. In such an instance as this, will it be said that after this measure has been sanctioned by Congress on full deliberation and debate; after the bill establishing this bank had received the approbation of the President, who reserved his signature to it till the last moment permitted by the Constitution, and after he had viewed the question with all its bearings in every attitude it could be presented, after full consultation with his Cabinet Ministers and others of high intellectual character; after the law thus sanctioned by the Legislature and the President has been acquiesced in and practised on for the space of twenty years, when it has been considered inviolable, and corroborating laws passed during the administration and legislation of different dominant political parties; when those laws have been sanctioned by the solemn adjudication of all our judges, both of the General and State Governments; to suppose that all these considerations are to have no influence as to putting to rest a Constitutional question which was doubtful in its origin, is to be sceptical and scrupulous beyond all reasonable bounds. If Congress had no right to incorporate a bank, was it not an act of usurpation in the President and Congress to pass laws punishing individuals for the forgery of its paper? Nay, more, Mr. President, when we inflict death for the support of institutions Congress had no right to create, and for the violation of laws the Constitution prohibits that body from enacting—(and under the denomination of each of the political sects into which this country is divided, agreeable to the principles now contended for by gentlemen, such laws have been passed)—are not the Executive which sanctions, the Congress which passed, and the whole body of our Judiciary, both of the General and State Governments, which enforces such unconstitutional measures, and under their surreptitious authority inflicts death upon our citizens, worse than usurpers? Are they not murderers? Yes, Mr. President, I reiterate, are they not murderers? And are we prepared to pronounce so heavy a denunciation on our predecessors, on ourselves, and the other great Departments of our Government? Are we ready to inform the American people that this body and all their constituted authorities have sported with the lives and illegally shed the blood of our citizens? My colleague was foreman of the jury that pronounced sentence, or that found a

verdict, on the famous or rather infamous Logwood, for forgery of the paper of the Bank of the United States. This verdict was confirmed by the judge of the court, and the criminal punished agreeably to the judgment. Is a measure of such weighty and awful import, so solemnly and deliberately acted on and decided, and multifarious other decisions of the same description, to have no influence on the decision we are about to give respecting the constitutionality of establishing a National Bank? If they are not, then gentlemen view the subject through a very different medium than that through which it is presented to my vision. Then, in my judgment, Mr. President, our situation is alarming indeed.

This vibrating, Constitutional doctrine, to-day one thing, to-morrow another, as the domination of one party or the other, or the passions of the moment shall prevail, will reduce our Constitution to nothing, or render it a mere instrument for depraved men, if such should get into power, to accomplish their wicked purposes, and to destroy the liberties and oppress the virtuous people of this country. It is a wise maxim of our municipal law that in novelty there is danger, but antiquity of law sanctifies error. If this principle is just, as it respects municipal law—and of this, in my judgment, there can be no doubt—it is infinitely more so when applied to fundamental and Constitutional principles, which, when once fixed, on all questions of a doubtful nature, should never again be agitated. The influence which the decision of the Judiciary may have on settling the constitutionality of the law incorporating the Bank of the United States, is not intended to be urged by me as an argument, which in my judgment ought to be relied on, because I conceive it the duty of the Judiciary merely to expound what is the law of Congress, and to determine between a law and the Constitution is assuming to the Judiciary a power not appertaining to it—a power inconsistent with the genius of our Constitution, and such a one as, if exercised by any judiciary, under a popular Government, will ultimately destroy the Government itself.

The inference, therefore, which is derived from the reasoning above insisted on, from the decisions of the Judiciary, is intended for those who insist that your Federal Judiciary have a right to decide on the constitutionality of any law passed by Congress which comes under its cognizance. The aid I myself derive from the source of precedent to support the constitutionality of this measure is solely from the reiterated acts of different Congresses, and the approbation of different Presidents, and the concurrence under them for the space of more than twenty years during the prevalence of different political parties. An attempt has been made by the honorable member from Tennessee, and others, to invalidate the accuracy of the inference drawn from this principle of precedency, by insisting that the bank law was in the nature of a contract with individuals, by which private rights became vested, and therefore the Government was bound to carry it into

effect. The gentleman from Tennessee imagines that during the period of the republican Administration and majority in Congress, which acted upon this bank law, it was considered in the nature of a contract, and as such, Government determined to carry it into effect with good faith, and with that view passed the several corroborating laws which have been from time to time enacted. But this reasoning, sir, of the gentleman from Tennessee has been so fully refuted by my honorable colleague, in the very able speech he delivered on this question some days past, as to obviate the necessity of further commenting on it. I will only repeat one remark that was made by my colleague. If the bank law was unconstitutional at first, it could not give any legal corporate existence to any body of men to form a legal contract in a corporate character which had no such existence. Therefore, there existed no legal contract; the faith of Government was not pledged; it was like a contract with a married woman, or an idiot; it was *ipso facto* void.

To recapitulate: I derive the power to create a National Bank, when this Constitution came into existence, from the situation of society, and our legal institutions at that time, and the difficulty, as things existed, that the revenue could be collected with advantage in any other way than by the agency of a bank. If this reasoning be deemed erroneous, I insist that the Constitutional power of Congress to create a bank was in the first instance doubtful, and the principle having been recognised, and having received every sanction the Government could give, and practised on for more than twenty years, is not now to be called in question. Admitting that on both these points my views are erroneous; say that the establishment of the bank, at its commencement, was improper, still, if it be demonstrated that the existence or rechartering of the bank is indispensable, or highly expedient at present, to the due exercise of enumerated rights of Congress, that which was improper or even perhaps unconstitutional at first, because it was not necessary, becomes Constitutional and proper, because now expedient or essential. Congress is clothed by the Constitution with a variety of delegated rights. Now, admitting that the establishment of a bank in the first instance was not necessary for the due exercise of the legislative rights bestowed in any one of these enumerated powers, if our predecessors in office, by the creation of a bank, which at best was an improper institution, because not necessary, have placed our fiscal concerns in such a situation that it cannot be put down without great injury to the revenue, which Congress is bound to levy and collect, without injuring our commerce, without impairing our public credit, without lessening the public welfare, all of which Congress is bound to provide for and protect; if this can be demonstrated to be the probable result of pulling down the bank at this period, I would ask whether that institution, which was improper at first, because not necessary, does not become proper, because almost indispensable at present?

In construing the Constitution of the United States, when legislating on the enumerated powers of Congress, I lay down this rule of construction: that the only limitation to the power of Congress is either some positive or implied prohibition in the Constitution itself, or the exercise of an honest and sober discretion. If, therefore, there is any reason to believe, at the present period and existing state of things, that by putting down the bank your revenue will be greatly impaired, your commerce will be injured, the public credit lessened, all of which Congress is to protect; does not such a state of things make it proper that that bank, which ought not to have been created, because not necessary, now ought to be continued because indispensable? It may here be said, that I am varying the Constitution if I say that a thing is proper to-day which was not proper five and twenty years ago; that this vibration will always keep the Constitution in an uncertain state. I say, no. My doctrine is subject to no such accusation; the principles of the Constitution are uniform and unalterable. It is an uniform and unalterable principle, that Congress have the power to lay and collect taxes; they have the same positive, unchangeable right to exercise all the enumerated powers, the only rule of construction relating to them being that the means you use have a necessary relation to the power on which you legislate. If the means be not enumerated, you exercise discretion as to the means, having a regard to the existing state of things when you legislate concerning them. The same means may be necessary and proper now, which would not have been twenty years ago. You change the means to attain the end, but the end itself, the enumerated power in the Constitution, remains unchanged. As long as the Constitution exists, you must select the means most proper for executing the enumerated rights at the precise moment at which you legislate respecting them. If this be the true construction of the Constitution respecting the recharter of the bank, the question merely resolves itself into an inquiry how far such a measure is at present expedient. To determine at this moment whether or not it be Constitutional, or in other words expedient, to incorporate the Bank of the United States, I am to say whether, under existing circumstances, in the present state of society, situation of trade and revenue, the preservation and continuance of this institution is essentially necessary. If it be essentially necessary, we have a right to recharter the bank. I have been precise in stating this view of the subject, because it has not before been taken by any other gentleman.

With respect to the expediency of rechartering this institution, I am somewhat surprised that any doubt should be entertained. It appears to me that gentlemen have become incredulous beyond all possible bounds. I believe, sir, it was a wise saying of the sage Plato, that incredulity is the fountain of knowledge. But even to this maxim there must be some limit, as seems to be illustrated on the present occasion, when incredulity has been carried even beyond all reasonable

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bounds. When general distress is in view; when all around us is proof of the fact; when men in the best credit, men who have heretofore had the greatest command of money, now feel the want of it; when there is a general cry of distress from your large towns; when our table is loaded with petitions from all orders of people in our country, depicting in the most vivid colors their present sufferings and gloomy anticipations; when the surrounding banks are curtailing one-half of their accommodations; when our whole commerce is paralyzed by the various aggressions it has experienced, and by the shock which the agitation of this question has already given it, for gentlemen to shut their eyes to the effects of the dissolution of this institution is to me astonishing. In another point of view how can it be questioned? The honorable gentleman from Maryland, whose knowledge we have all benefited by and acknowledged on various occasions, has said, what is most unquestionably true, that money is like any other article of trade, valuable in proportion to its abundance or rarity. Then if you strike out of circulation the increased capital circulated by the Bank of the United States, is not a relative scarcity to be expected?

But it is not merely to the extent of the increased capital circulated by the Bank of the United States that money will be driven out of circulation. Those gentlemen who tell you that the State banks in this period of calamity and distress can afford sufficient accommodation, are in my estimation infinitely mistaken. The State banks will in the first instance frequently tend to increase the evil. The same men who have accommodation in the Bank of the United States, very frequently have it also in the State banks. The Bank of the United States, finding it necessary to settle the accounts, is anxiously employed in drawing into its vaults all the money it can to settle its affairs. The State banks, knowing there will be a run upon them, are also drawing in the money due them by the very individuals whom it is imagined they can accommodate by extended loans. Those State banks which were to relieve the merchants, &c. will join in the pressure; in order to secure themselves, they must produce the same curtailment to their customers which is used by the Bank of the United States. So that not only will the amount of the capital circulated by the Bank of the United States be driven out of circulation, but much also, for a time, of that paper which the State banks were in the habit of issuing to individuals. It is impossible to say to what extent the circulating medium will be diminished; that it will be to a great extent for a short time there can be no sort of doubt. And the depression of the price of flour at this period is proof that the present apprehensions have already produced this effect; for although I would yield much to the superiority of information of the gentleman from Maryland on mercantile affairs as on most others, yet in this instance his information is not, in my estimation, correct. It is a notorious fact that flour is now in as great demand as ever it has been in

Cadiz, Lisbon, and Gibraltar. It is not long since I saw an account of flour having sold at twenty dollars at Gibraltar. Now, sir, if a merchant here knew he could get this price there, of from eighteen to twenty dollars, as is unquestionably the fact, would a temporary depression of the prices at Liverpool, as has been imagined by the gentleman from Maryland, have any effect here? None at all. If our merchants could get eighteen or twenty dollars at Lisbon, the depression of price at Liverpool would not have the least operation here; it is an unquestioned fact that the price in the ports I have mentioned is constantly kept up—and yet the price did fall at the moment the bank question was thought to be decided; I think, it fell two dollars immediately; and it was no doubt from the difficulty of obtaining money, which it was supposed would result from the dissolution of the Bank of the United States, that this article fell. When you diminish the quantity of money which is to represent the articles of trade brought to market, I do not want the gentleman's mercantile knowledge to inform me—it is a plain proposition—that such a measure goes to depress the price of the article brought to sale. That the destruction of the Bank of the United States, as it will lessen the circulating currency for a time, must go to depress the price of produce is unquestionable, and will also diminish for a time the circulation of the notes of other banks, because they must reduce their discounts. This effect may be but temporary, but will exist to a certain extent.

The gentleman from Maryland has observed that no apprehensions are entertained by the people of Baltimore on account of the dissolution of the United States' Bank. I think I have been informed that one of the most wealthy men in that town has said he had a vessel to load, and knew where he could send her so as to clear six dollars per barrel on flour; for that flour at this period could be purchased here at eight dollars and might be sold abroad for eighteen; but in consequence of the entire impossibility of obtaining money from the banks at present, from the fear entertained respecting the dissolution of the Bank of the United States, it was not in his power to load his vessel. Such, sir, I have been advised, is the situation of one of the wealthiest men of that town. The Bank of Columbia has at one stroke lessened its discounts fifty per cent., in consequence of the apprehension entertained respecting the dissolution of the Bank of the United States. What has the gentleman from Massachusetts told you? That \$400,000 are loaned to the people of this District by the Bank of the United States. What will be the effect in this little District of drawing three or four hundred thousand dollars out of circulation? Sir, to tell me that the reduction of circulating medium will not produce (it may be but for a short time) a correspondent reduction of the prices of produce, is to tell me that I cannot see the noon-day sun. How long this reduction of the circulating medium and the consequent depression of prices may last, it is difficult to say.

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When the numerous late failures and bankruptcies are spoken of, what is the reply? That they do not proceed from a want of bank accommodations, but from the protesting of bills abroad; that our merchants have much property abroad, but the difficulty of obtaining returns for it has been such as to embarrass our strongest houses. Is this a reason why we should accumulate difficulties on our merchants? Fifteen or twenty millions are said to be tied up in foreign countries, more especially in England, and such is the situation of England that we cannot get remittances from there. This is an admirable reason, sir, indeed, for selecting this particular moment for calling on the merchants to make an immediate payment to the amount of fourteen millions, which they owe this institution, and which, if put down, it is reasonable to believe will require immediate payment.

This is regulating trade with a witness. By the annihilation of the Bank of the United States a considerable portion of our circulating medium is destroyed. At the same period our merchants are called on to pay their debt to the United States' Bank to the amount of fourteen millions, and their revenue bonds amount to about twelve millions. This, too, at a period when the funds of our merchants to a great extent are in England, and cannot be withdrawn.

To me it appears that the situation of the country, as respects commerce, and everything else, makes it important, at this crisis, above all others, that this institution should be preserved.

But gentlemen, and very intelligent gentlemen tell us, this is a mere momentary pressure; that, the money in the Bank of the United States, and the revenue as collected, will be deposited in other banks, who will issue paper or specie in proportion to the additional capital in their banks; that there will be a mere temporary vacuum, which will soon be filled. If I am to be placed in an apartment from which all respirable air is exhausted, and for a very short time to remain there, but till all vitality is extinguished, it will truly be a delightful consolation previously to advise me that this vacuum is temporary, and, after I am destroyed, the equilibrium will be restored and fresh air admitted. Precisely of this nature is the consolation afforded to your ruined merchants and others. What avails it if the cause be momentary, but the effect as to them be permanent? This awful moment will bring permanent destruction to thousands. And for what purpose do we produce this destruction? To get rid of the foreign influence produced by the stock held by foreigners. Yet, sir, this foreign capital is one of the most beneficial consequences attending the bank institution.

In a new country, constantly developing new resources of every description, an increasing population, increasing commerce, agriculture, manufactures, and multiplied objects on which capital can be employed to great advantage to develop the wonderfully increasing energies and resources of our young country, we can afford to pay foreigners good interest for the

use of their capital. This is one of the great reasons with me in favor of the bank. We are admonished that this foreign capital gives to foreigners a dreadful political influence. Admit the assertion, which however is not true. Who invited it here? The Government itself. We ourselves sold this stock to foreigners. Our Secretary of the Treasury, with the knowledge and consent of the Government, bargained and transferred great part of it. Is this good faith, is it honorable and just? After we have received a bonus for the transfer of the stock to individuals, under the idea that the charter was inviolable and secure, to destroy the institution to get rid of this foreign capital which we ourselves had invited here? If these moneyed banking institutions are these horrid engines of political influence and corruption some have contended for, the only way to obtain any good they afford, and yet avoid their deleterious effects, is to get foreigners to send their money here, and invest it in our funds. We get the benefit of their money, whilst we are so far removed from them that they can have no operation on us. For, sir, it is notorious to those who are informed on the subject, that we feel less inconvenience or political influence from foreigners who hold stock, than from natives who possess it. This inference must be obvious when I state, that foreigners who hold stock have no vote in the choice of directors.

Again, sir, is not the critical situation in which we stand in respect to our foreign relations a particular reason why we should not at this time make experiments which may injure the public revenue? If we enforce our non-intercourse law, and England attempts to resist it and force her imports into our country, by Florida and our southern frontiers on one side and Canada and Nova Scotia on the other, it is at least questionable whether our revenue will not be greatly diminished. In our present unsettled situation, with our merchants staggering under the weight of the non-intercourse, embargo, and foreign spoliation—is this a moment to try experiments that may have the effect of reducing our revenue, by crippling our mercantile enterprise, and forcing our merchants to withdraw their funds from commerce, in order to pay their bonded duties and bank debts? But will the destruction of this bank rid us of the dreaded influence of foreign capital? No; you get in its stead an influence infinitely worse; you encourage speculation, which will produce an evil of an infinitely more pestiferous kind. If this bank be put down, another ere long I have no doubt will be created, for that another bank must and will be created is avowed by many who vote against continuing this, and whenever this takes place a scene of stock-jobbing will ensue to an extent which cannot be now calculated. When a new bank and a new stock is created, although by prohibiting foreigners to be subscribers in the first instance it will at first be taken up by our own citizens, yet, if the European capitalist finds it to his advantage to have money here he comes and purchases our stock; our citizens, in the subscription to the new stock,

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engage in a scene of the most debasing speculation; our citizens afterwards sell this stock to foreigners whose foreign influence we wish to avoid, and after having gone this vicious circle we arrive precisely at the point where we started. The same foreigners who now have so much of this bank stock will reinvest their money in the stock of the new bank to be created. This dissolution of the bank, then, is trying wild visionary experiments, possibly in its consequences convulsing society to its centre, sporting with the feelings and happiness of the country, impairing mercantile credit and enterprise, injuring the tranquillity of many of our most meritorious citizens, who see ruin hovering over them from the measure we seem like to adopt; and after all this is done, we come round to the precise point from which we commenced.

It has either suggested itself to my mind upon reflection on the subject, or it is an idea suggested by some political writer, (and I think the latter is the case,) either Hume or Smith, or both, that a gradual, silent and almost imperceptible increase of money or circulating medium has the happiest effects on society, and operates as the most salutary stimulus to the exertions and industry of a nation, because it operates as a gradual though perhaps nominal premium to industry, by increasing the price of every article that is brought into market; and the influence which the discovery of the mines of South America had on the European world, by bringing into circulation an increased quantity of the precious metals, is instanced, as well as I recollect, by some of the economists, as an illustration of this observation; for the increase of industry, of the arts, and of all social comforts which soon followed this event has been remarked by several political writers. If this invisible increase of the circulating currency of a nation is from the causes abovementioned productive of such happy effects, will not the immediate extinguishment of a great National Bank, and the consequent diminution of the circulating currency of your country, have an immediate opposite and baneful operation upon society? Will it not produce a temporary depression of prices of many of the necessities and luxuries of life, and to a certain extent lessen and benumb the vigor and exertions of our citizens? It is true, this effect may be temporary, because new banks will remove the evil—but is there any reason to produce this evil even for a moment; or, in other words, should we produce this deleterious effect for one moment by the destruction of one bank, that we, or the States, by the erection of new banks, may remove the evil we ourselves have created? This seems to be producing a calamity that we may either remove or mitigate it.

The bank, it has been objected, has been used as an instrument of improper political influence.

Let it be remembered, Mr. President, that I am not advocating the mere renewal of the charter of the Bank of the United States. I am only for rechartering it on certain conditions, or, in other words, with a view that it may subscribe to the

amount of its capital to a newly created bank on different principles, of larger extent of capital, and with a portion of the directors appointed by the Government. This, sir, will effectually prevent the directors from using the bank as a political engine against the Government itself, and obviates every objection on this head. Witness the Bank of Virginia—how effectually is such an operation guarded against there by such a provision.

I have no sympathy for the directors of this bank, who are said to have improperly exercised this political influence—all my sympathies are in opposition to them. It is not for the benefit of, or tenderness for these directors that I advocate the bill on your table. I know none of them, nor care anything about them, further than not to do them injustice. They may have conducted themselves exceedingly improperly—I believe they have done so many years past, on some occasions—but this is not the way to seek redress for their misconduct. Sir, I have heard of a man who, when irritated, in order to obtain satisfaction, would seat himself on a chafing-dish of hot coals. The mode which is proposed to punish the directors for their real or supposed misconduct is equally wise in this instance. I would not injure the public welfare and heap ruin on very many innocent men for injuries long since committed, if at all, by these directors, and which never can be revived. Besides, this evil is gradually correcting itself. When there was only the Bank of the United States, or very few others, the consequence was, that it was a species of favoritism to get into the banks, and a privilege extended only to particular friends.

But at the extent to which banks are carried at present in the Northern and Middle States, to which the operation of the Bank of the United States is principally confined, it is not a species of favoritism to obtain bank accommodation. In the city of Philadelphia, before the late alarm, produced by agitating the question we are now discussing, every man who could produce good paper might get as much accommodation as he pleased; and to this extent banks should always be carried if once commenced. This is a remedy for favoritism, and prevents the bank from being formidable as a political engine. If we go to banking at all, let it be so that all good paper can be accommodated. When the banks compete for paper, it is then not a system of favoritism. They rather seek for customers than select them. Such was the situation of Philadelphia. What is the consequence of a contrary system in Richmond? In consequence of the erection of a bank there with a little capital, the discounts got into the hands of a few favorites, and Richmond is stated by some to have almost become a nest of shavers. Those persons who are favorites go into the bank, get accommodated with large discounts, on the strength of which they shave the paper of others; but in Philadelphia the situation is essentially different, from the redundancy of banking capital; thus the evil of political oppression and intolerance, to which the

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Bank of the United States is said to be instrumental, is cured by the establishment of other banks; but it is possible that to a certain extent the undue influence of banks generally may be revived by putting down the Bank of the United States and creating a want of banking capital in the community. If there be a greater demand for discounts than can be met by the remaining banks after that of the United States is destroyed, then you revive with the remaining banks that power of political influence and favoritism which you are so anxious to avoid, and increase the calamity you deprecate by the very means you take to avoid it.

In a perfectly well regulated state of society, it seems to me things should be so ordered, if it can be effected, that every individual of the community should obtain loans of money, on reasonable interest, to any extent for which he can give ample security. In such a state of things, an opportunity is afforded to bring into action, and to develop all the resources of the nation, to improve its agriculture, its manufactures, its commerce, and all the social arts, to the greatest possible extent. Such was the state of Holland, such the state of England before the present disturbances in Europe; and mark the result. Each country polished and improved like a garden, their commerce extending over the world, and all the discoveries and arts which enrich and adorn social life carried almost to the utmost limit of perfection. This state of things can be effected in this country only by the agency of banks. As we are every day increasing our population, commerce, and agriculture, &c., and bringing into action an increased quantity of objects on which money can be advantageously employed, a proportionably increased quantity of circulating medium, or of banking capital, is necessary to keep pace with the improvements and progress of society. If this reasoning is just, it is surely improper to destroy our greatest moneyed institution, and consequently banish from circulation a portion of the circulating medium at a period when the state of the nation is capable of employing to useful purposes a larger capital than at a former period. If it is apprehended that, by affording this facility of borrowing money, to the extent I have insisted on, to every individual who can give security, incautious men will ruin themselves. I answer, they will do this in any state of things. To argue against the use of an institution from the possible abuse of it, is not a just mode of reasoning. A sensualist may destroy himself by excesses in the enjoyment of the table, yet more temperate men will eat their dinner. That society should be deprived of the use of an institution, from which its prudent members can obtain great advantage, because imprudent people will be ruined by it, is, to tax the valuable members of the community for the benefit of the unworthy. I am informed, Mr. President, that for some years past, in the State of Pennsylvania, any citizen of that State could obtain, on good security, from the banks as much money as he wanted. Sir, what astonish-

ing progress has she made in every kind of improvement and in every species of wealth! Look at the State which I have the honor to represent, whose apprehensions about banking institutions have made her averse to the extension of such establishments. The result has been that, notwithstanding she is, perhaps, the greatest agricultural State in the Union, furnishing more copiously (and the most valuable) articles of export, and possessed of all the materials of commerce, she is destitute, in a comparative degree, of commerce itself. When cargoes of wheat, flour, or tobacco, are wanted in Europe, a merchant of Philadelphia is applied to to furnish these articles, though they are to be purchased in Virginia. But wherefore? Because, having no banks in Virginia that are adequate to the wants of society, our merchants cannot afford to advance the money, purchase the cargo, and draw for the amount. On the contrary hand, the Philadelphia merchant can go into a bank, get as much money as he wishes to purchase a cargo with, send it on to Virginia and make the purchase, and, after the vessel is loaded, draw on the owner for the amount of the cargo and his commission. Comparatively speaking, all mercantile profit is drawn from us; our produce is exported and our imports imported by the merchants of other States, who derive all the profits of our commerce, which, in a different state of things, would remain with us and constantly increase the wealth and resources of the State. I have been induced to enter into this train of reasoning and statement of facts, in order more clearly to illustrate this position, to wit: that in order to prevent a banking institution or its directors from having a political or other improper influence, it was not necessary to destroy an institution which was in itself useful, but to correct its abuses by extending the banking principle till all good paper could be accommodated. I have stated that in Pennsylvania, until the present alarm which this discussion has produced, any person deserving credit could obtain it to any extent he wished. The banks in such a situation compete for customers; and, in such a state of things, the bank, not being able to accommodate all, must select its favorites, which gives to them particular advantages which others do not possess, and enables them to apply to usurious purposes the money they get out of the bank, by lending it to others, who, if there was a sufficiency of banking capital, would themselves go into the bank and be accommodated with that very money for which they now pay an usurious interest. Such a bank is an evil, and in such a state of society, where there exists such a difficulty of loaning money, a man worth \$20,000 may have his fortune sacrificed to pay \$5,000. This statement will clearly illustrate the object I have in view, which is, to show that by extending the banking system to the proper extent, if you once commence it, you destroy its political influence and prevent it from being an instrument of either public or private oppression. Such is the situation of the Bank of the United States at present. Whatever may be the disposition of their direct-

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ors, they are incompetent for all the purposes of influence.

Mr. GILES said it was with regret he interrupted his friend, but he seemed to suppose the banking capital at Richmond was so small as to convert that city into a society of shavers. This was not correct. He, Mr. G., had a conversation with the president of the bank, from whom he understood that the bank could do more paper than was offered to it.

Mr. BRENT said he had heard no positive information as to the fact he stated; but it was well known that men as good as any in the United States had not been able to get their paper accommodated. He knew the President of the bank, for whom he had a sincere veneration and affection. No blame attached to the bank. He said that the establishment of a bank anywhere, however pure, provided it was not adequate to the wants of society, would produce shaving.

Mr. B. said he had many other remarks which he wished to submit, but the hour was so far advanced he would not trespass further on the attention of the Senate at present. If a fit opportunity should hereafter occur, he might again take the liberty of making a few observations on this subject, but he would avail himself of this occasion to say that he did not mean to make any reflection on the Directors of the Bank of Virginia; they were not in the smallest degree censurable. He believed the affairs of the bank were ably and honorably conducted by them.

TUESDAY, February 19.

The credentials of JOHN CONDIT, appointed a Senator by the Legislature of the State of New Jersey, for the term of six years, commencing on the fourth day of March next; and of WILLIAM B. GILES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the fourth day of March next; were severally read, and ordered to lie on file.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed;" and the bill was ordered to the third reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory;" and the bill was ordered to the third reading.

The Senate resumed, as in Committee of the Whole, the bill making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes.

On motion to amend the bill, section 1, line, 21, after the word "acre," and strike out as follows:

"And that the whole of the purchase money shall be paid by the purchaser within three months from the day of sale, otherwise the sum deposited shall be

forfeited, and the land revert to the United States, in the same manner as is provided by law in the case purchasers of public lands fail to complete their first instalments;"

It was determined in the affirmative—yeas 22, nays 2, as follows:

YEAS—Messrs. Anderson, Bayard, Campbell, Condit, Crawford, Cutts, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Leib, Pickering, Reed, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bradley and Lambert.

The bill having been amended, the PRESIDENT reported it to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. CAMPBELL, from the committee to whom was referred the bill, entitled "An act to authorize the election of sheriffs in the Indiana Territory," reported it with an amendment; which was read.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

Mr. TAYLOR.—Mr. President: Although much time has been consumed in the discussion of the subject before us, and the ground completely occupied by those who have gone before me, yet the importance of the subject, the immense magnitude of the unhappy consequences likely to result to the nation from the rejection of the bill on your table, compel me to offer to it all the support in my power. Indeed, sir, to this sense of duty to the nation is superadded a very sacred, and to me indispensable duty—my duty to the State which I have the honor in part to represent, as well as another duty, which, from the course the debate has taken, is not to be disregarded; I mean, sir, the duty which I owe to myself.

I cannot, as other gentlemen have boasted they can, put my hand into my drawer and pull out the instructions by which I am to be directed on this important subject.

The State of South Carolina is a very large stockholder in some of her State banks, and if a selfish policy, contracted to the narrow sphere of the unique advantage in dollars and cents of the government of that State—in contradiction and disregard of the great body of her own citizens, and the citizens of the rest of the States in the Union—could have weighed a moment with her Legislature, I too might have been instructed. Let me not be understood, Mr. President, as drawing any comparison between the conduct of the State of South Carolina and the conduct of the great and leading States who have acted otherwise; but I must and will tell of the things that I do know. I rejoice, sir, that the State which I come from has, in this instance, been actuated by that magnanimity and patriotism

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which on all former occasions has distinguished her conduct; that neither selfishness, nor party rage, nor a spirit of intolerance, has induced her to counteract or embarrass the National Legislature in its pursuit of the great object of its institution, the good of the whole.

I hope it will not be considered as savoring of egotism when I say that my appointment to the very honorable station I now hold was unsolicited by me. That my sentiments on the subject now under consideration had been by me unequivocally expressed at the last session of Congress, and were well known to those who appointed me. Nay, further, after my venerable and respected predecessor had resigned his seat here, and had declined, also, his appointment for the ensuing six years, pending the election of a successor to him, and when my name was held in nomination, a resolution was offered, similar to those which we have heard so much talk about, proposing to instruct the Senators of that State to oppose the renewal of the charter of the Bank of the United States. This resolution, as I am informed, lay on the Speaker's table when the election was gone into. I was elected, and the proposers of the resolution had not power nor influence enough to raise it from the table on which it lay, and it died stillborn at the end of the session; and if I were to make an inference at all on these transactions, I should suppose I was tacitly instructed to vote for the renewal of the bank charter. But I seek not the avoidance of responsibility. It is here, sir, in my own bosom, I have instructions paramount to all others. My beloved country has rested the matter here, and my gratitude is superadded to all other moral obligations operating on me to perform this trust, and to execute this duty with faithfulness. I find the authority of Congress to grant this charter in the same sections of the Constitution which the gentlemen who have gone before me have pointed out to you. In section seven, clause first, power is given to Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States; but all duties shall be uniform throughout the United States."

Clause second gives power "to borrow money on the credit of the United States." And, in the last clause of said section, power is also given to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States, or any department or officer thereof.

Let us understand the meaning of the words *necessary* and *proper*, in the last quoted clause, for upon a correct knowledge of these depends, in my opinion, the correctness of our conclusions on this subject. The word *necessary*, in its technical and legal sense, in the meaning affixed to it in common parlance, established by usage, custom, reason, and the common law of the land, is different and distinct from the signification of the same adjective derived from the substantive ne-

*cessity*, as used by Hobbes, Hutchinson, Hume, and the other metaphysicians of the last century. It is well known that they used the substantive *necessity* as synonymous with the word *fate*, and which necessity, according to the opinions of one party, controlled omnipotence itself. This necessity was, supposed by them co-existent with the Deity itself, not prospective nor discretionary, bending in one way, and in one way only, all substance, all matter, and all spirit. This meaning of the word is only to be found with these metaphysicians and philosophers; but in our law books, in the daily and hourly use of the word in common conversation, it has no such meaning. When the old Congress passed the conditional charter—which I admit they had not a delegated power to grant, but which is fully in point, both as to the signification of the word and, also, of their opinion of the necessity, and even indispensableness of a bank for the administering the fiscal concerns of the nation—in the conclusion of the preamble they say that the exigencies of the United States render it indispensably necessary to pass the act, &c.; and in the laws passed during that period, when this Government was in the habit of following the English custom of beginning the laws by a preamble, you find the word *necessary* used as synonymous to *expediency*—practical expediency, (see *Laws of the United States*, vol 1, page 247; *idem*, page 276,) in fact, among frail mortals with fallible judgments like ours. With any beings endued with less than omniscience, the word *necessary* must be only applicable to the honest judgment we can make up concerning the subject to which we apply it; in other words, it is resolvable into that sound discretion with which, as moral agents, we are in the first instance intrusted by our Maker, and in the instance now before us, we are intrusted with by the Constitution and by the citizens who have sent us here to transact their business. But the rigid *necessity* which our opponents wish to enforce on us, this metaphysical necessity, must, from its very nature, be immutable; it must be unique, and could not exist in a greater or less degree; and, therefore, the word joined to it in the Constitution (*proper*) could have no meaning at all. The laws, to be passed, must be necessary, is the only one way given under heaven by which you are to effect the end desired; in other words, the law must be imposed by Fate. It is perfect nonsense to say that there is a latitude left with us to judge whether such a law is proper or improper. I have, I think, brought the meaning of the word *necessary* to the level and within the comprehension of frail human intellect. The signification of the word *proper* I take to contain the description of the measure or law to which it is applied, in the following respects: whether the law is in conformity to the letter, the spirit, and the meaning of the Constitution; whether it will produce the good end desired in the most ready, easy, and convenient mode, that we are acquainted with. Let us apply these definitions to the matter in hand.

Our opponents have admitted that banks are



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necessary to receive and take care of the revenue of the nation. They have, by their statements, shown that there is little more than one-half of the amount of specie in the country which the national revenue rises to annually, and the burden of the song is, that State banks will do.

Banks are, then, necessary and proper for the collecting, transmitting, and safe keeping of the revenue. Banks are created by law. Congress, by the Constitution, have the right of passing laws necessary and proper for the foregoing purposes. Banks are necessary and proper for these purposes; therefore, Congress have the right of passing a law to make a bank or banks. But, the power of granting charters and creating corporations is the exercise of the highest act of sovereignty say our opponents. I know no scale by which these acts of sovereignty are graduated. The power of legislation implies sovereignty, and the description of a high law and a low law is hardly to be found in any book I have yet met with. I will not dwell on this topic. The arguments of the gentleman from Virginia (Mr. BRENT) on this point are unanswerable. It is curious to observe the extremes to which some of our statesmen carried their doctrine twenty years ago, on this subject of charters and corporations; and I have recently met with some who deny that any Government has the right to grant them. Our little town corporations, and our city corporations, in the State I live in, have had to pass through the legal ordeal to satisfy the doubts of those who entertain this opinion. But now, all the States undoubtedly exercise it, or rather, they have continued to exercise it from their first existence. So have we, in legislating for this Territory. If this power is derived from the broad terms of the grant to pass laws for this District, in all cases whatsoever; and if the unlimited, unrestricted grant thus made, is supposed to dub us with the higher or quintessential sovereignty, I think it would not be a difficult matter to prove that this broad grant is, in fact, as much limited and restricted, according to its nature, as the grant of power in the concluding clause of the eighth section, which I have before cited.

Can Congress even pass a law respecting the Territory of Columbia, which, according to their opinions, shall not be necessary and proper? The well-being of its citizens, or the well-being of the citizens of the whole nation, (for even legislating the Territory into non-existence, if we could do so,) these would be the motives; in fact the Legislature must be *non compos mentis*, who could or would assign as a general reason, for any of its acts, one opposite to this one of its being necessary and proper.

Great stress is laid on that amendment of the Constitution, which says, that all power not expressly granted shall be retained, &c. Either the general clause I have relied on gives power or it does not; if it did not give power why was this amendment made? And if it did, and this power was offensive, why was it not stricken out when the amendment was made? But if it expressly

gave power, which I contend, its being suffered to remain is proof that it was not the design of the amendment to take away the power given. Could not the Territory of Columbia have been governed without erecting a single corporation in it? I don't mean well governed. But was there that fatal necessity; that command from Jove,

"Ye fates fulfil it, and ye powers approve,"

to erect corporations? This legislation to erect corporations being, according to our opponents, *sui generis*, not of the ordinary kind, and only to be exercised where the express authority is given by the Constitution, I ask gentlemen to show the clause in the Constitution which expressly gives us the power to perform this sublimated act of legislation in this Territory any more than in any other part of the United States; and yet at this very session we have sent an armful of these high acts. The shelves of the office of the Secretary groan under the pile of charters we have granted.

I said it was easy to prove that the broad grant given to Congress to legislate for this Territory in all cases whatsoever, was restricted and paled in by the Constitution. Congress cannot make the duties here on imports less or greater than elsewhere in the United States—imports and taxes must be equal, &c.—nor deprive the citizens thereof of the right to a trial by jury, nor grant them titles of nobility; and yet the incidents here alluded to would come under the description in the clause "of all cases whatsoever." In truth, sir, there is not a scintilla of the spirit, nor a single word or letter of the Constitution, that loses its power and sanction upon our conduct in legislating in this particular. There is no more a power given us to legislate *ad libitum* on this Territory, nor to derive therefor powers by implication, than is given us in the laws we pass for the whole nation; and if this power, *sui generis*, of creating corporations, is properly defined by our opponents, they ought to go back to the works of yesterday, as well as to those of twenty years standing, in order to introduce their new order of things. I might here draw a comparison of the tried scheme of using the United States' Bank, and the untried scheme of using State banks in aid of the operations of the National Treasury; but I should only be saying with less force what has been so fully and so conclusively said by the gentlemen who have preceded me. Suffice it to say, that for safe-keeping, for transmission and payment of the funds to any part of the nation, and for enforcing the punctual payment by the debtors to the customs, by addressing to those debtors the arguments to the sense of honor and shame, and also to their interest, to wit: by denying them credit in the bank on failure in punctuality—all these have been afforded to the Government without its incurring therefor one cent's expense. Are we sure the State banks can or will do this? I beg pardon of the Senate for detaining them on topics not new. As this is made a case of con-

science, I deemed it necessary to be thus particular. I have no hesitation in saying, we have the right to act on this subject, inasmuch as I think the bank is both necessary and proper for the purposes above referred to.

To me it appears that this power is expressly granted; we derive it not by implication; but our opponents, in fact, are pressed to the necessity of using implication to come at the denial they set up against the exercise by Congress of this power.

I say, further, that this institution is necessary and proper for carrying into effect another general power, viz: The power to borrow money on the credit of the United States.

I am one of those, Mr. President, who have always thought a superabundant Treasury was no national blessing. It is very easily to be demonstrated that as to the effect of accumulating national wealth, one dollar in the pockets of our citizens would add twice as much to the common stock as the same sum taken from them and lodged in the strong box of the Treasury. None but the nerve of a rigorous and miserly despot, such as was the father of Frederick the Great, of Prussia, could ever keep it together after it was collected. I fear that we Republicans are so generous in our natures, that in some way or other, for some favorite project of a fortification or fortifications, whether by land or water, we should let it go, and think, too, we were doing the greatest possible good with it. For sudden emergencies then, I conclude, while our Government lasts, we shall have to anticipate by loans, taking care, as I hope we always shall, and as we have done, to provide for the early release of the Government from such obligations, which the necessary or sudden emergencies are not to be suffered to accumulate. The Bank of the United States serves for effecting both objects—quick and reasonable loans. One clause of the bill compels the bank to loan to the United States the amount of half its capital; and the form of these loans, as heretofore practised by the Government, is by a mere entry in the bank books, and in the books of the Treasury of the United States, of the money borrowed, and the interest stated, which is payable thereon; in other words, there is no transferable stock delivered out, and which the Government cannot redeem whenever it pleases. I ask gentlemen, if the Government is not bound to provide the means necessary and proper of exercising this power of borrowing, and whether there can any way be devised, a more proper mode for the advantage of the nation, than the plan proposed; and will not this ready resource, which we have for five, six, or seven millions of dollars, serve to keep off the pressure and the combination of individual rapacity and of individual concert and cabal, with which your efforts to borrow may be met by the large capitalists, and give to Government time to borrow even from foreigners, if with them we can make a better bargain for the nation? I know some gentlemen talk largely of the vast sums of money which our citizens have ready to pour into the

lap of the Government, if to them it should apply for a loan. The same boasting took place at the time this Government made its only experiment to borrow money from its citizens. Yes, sir, when there was a mighty rage against France, and the Government was urged into the expensive measures of that day, the experiment was made; and we had to give usury—sir, we had to give an interest of two per cent. more than the legal interest in the States where the loan was effected. The present crisis is an awful one. The system of non-importation is now in operation, which hermetically seals the lid of your Treasury box to the admission of revenue. It is known we shall have to borrow money. And after you put down this bank, where is the loaning capital of the nation to be found? I'll tell you where; it is under the management of the State banks, and those banks, at least in the largest money-holding State in the Union, (Pennsylvania,) are precluded from loaning to the United States, unless by consent of the Legislature. Will you go to those gentle and good souls, who give to the distressed the good bargains which the gentleman from Maryland (Mr. SMITH) told us of? Will you apply to the mercy and kindness and patriotism of those ravenous sharks and shavers, who are even considered as acting very moderately when they take from the distressed their one and an half per cent. per month, or eighteen per cent. per year, for the use of their money? I don't expect much patriotic support from such men as these; they would spurn you with contempt, if you offered them your pitiful and beggarly six per cent. But the State banks are the panacea for all difficulties—they may lend you the money you want, provided you get the consent of the State which granted their charters. But all the States have not restricted their banks from lending money to the United States. I am contemplating this not for a day only. Do you believe that New York or Maryland, after experiencing the effect which this controlling power of the State over the money of its citizens shall have on the General Government, will act so unwisely as to forego the advantage of influence in the Union derived from their dollars and eagles, and act so unjustly to themselves as not to follow the example? Why, sir, not for selfishness-sake, but for the sake of fair play, they ought and would do it. The States ought as little to disparage us in the exercise of our legitimate functions as we them—yet, by the operation of these State charters, millions of money are put out of our reach unless by their consent—when, by the Constitution, we are undeniably permitted to borrow money. Are we come to this—that this meagre and grim demon, this Dr. Snatchaway, who not only denies the powers derived incidentally, (although we have exercised them thousands of times,) but before whom withers and perishes the powers expressly granted; that this Devil Doctor is even now about to renew to us the distress of the honest Governor described by the inimitable Cervantes?

I beseech gentlemen, not to bring on a premature

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old age in this Government; I beseech them, not to disfranchise the Government of the necessary powers for carrying it into effect, and not to throw away the experience and the acquiescence of the nation for twenty years duration; and I most fervently beg that this power should not be surrendered to the great and leading States because they have inconsiderately asked for it; that Congress will not, in imitation of the good old Lear, yield to the members of our family what is wholesome and necessary for supporting our own household. Soon, very soon, the eyes or ears of one or more of the members of our family may be offended at the sight of our committees, our mendicant missions lounging about the lobbies and galleries of the State Legislatures, as some of us have been offended at the presence of the missionaries lounging about our galleries; we, who are now supplicated, will then be supplicators. While we succumb to the views or prejudices, or State policy of each particular State, from whence we implore the permission to borrow, we may succeed; but, act independently, run counter to their local feelings, they will not lend you a doit. Think you, sir, that the State of Pennsylvania would have consented to your making a loan from its banks at the period at which General Bright was in battle array against your authority? Think you, that Massachusetts would have treated your *beggars* kindly during the embargo ferment? Would the gentleman from Maryland, with his high standing in that State, the turn of whose *politics*, he says, may depend upon the continuing of this bank—could he, sir, with all his commercial knowledge and the eloquence he displays, have obtained the grant of a favor to the Government of the United States about two years ago? Ah no! sir. When civil broils, when political intolerance and party rage, shall pervade a Legislature, they will act as other men, and if excited only to the height which the newspapers seem anxious to excite them on the present occasion, there might be rashness enough found to induce them to use your messenger as was used the good old Kent, when supplicating in the cause of his houseless master. The gentleman from Virginia (Mr. GILES) has called the attention of the Senate to the 9th article of the amendments of the Constitution, viz: "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage *others* retained by the people." Now Congress have the *power to borrow money, and from plain and necessary implication*, though not by express delegation, (such as is required by gentlemen in the instance before us,) we have the power to fix the rate of interest to be given; yet the State Legislatures have the power to fix the rate of interest which their citizens lending money shall receive, and have fixed and established that rate, and enforced the provisions on this subject by severe penalties. I know not how Mr. ADAMS found the States so much asleep to their rights when he tempted their citizens to become usurers, and this too in denial and disparagement of State powers actually exercised. If the present vigilance had then been

exerted, I should suppose he was very lucky that he was not as much harassed as were some of the victims under his sedition law. Carry this doctrine of rigid construction in respect to this instance of collision of State and United States authorities to the extent contended for by the opposers of the bill—enforce to the fullest extent, according to its obvious meaning, the amendment last quoted, and we shall be surrounded with powers which we dare not use. We may borrow, but the citizens will not lend for the legal interest established by law—their States prohibit them lending at an usurer's interest, and impose heavy penalties if they do; or, to embarrass the General Government, the *States or some of them* holding the moneyed capital may prohibit individuals as they have prohibited the banks from lending to us, and thus benumb all our energies. In fact, sir, the doctrines and notions I have heard enforced here, seem calculated to place us in the situation of the miserable Tantalus; the limpid and wholesome stream is within our reach, but we dare not reach out our hands to take up a drop to cool our tongues, destined to the sufferance of eternal thirst. Let me now inquire how the destruction of this bank is to operate on the nation at large. By the minute detail of the honorable Senator from Maryland (Mr. SMITH) of the mode and manner, and by what commercial operations, the foreign capital in this bank is to find its way out of the country, I take it to be one of his motives for putting down this bank, that the foreign capital should be drawn out of the country. Indeed, if this were not his object, I cannot see why his heaviest artillery was brought to bear upon the foreign influence which he alleges this foreign capital brings into the country; and yet neither he nor any one who has cried aloud against this *sin* has produced a single instance of a foreign stockholder having exerted his influence against the Government of this country. (*Baring's* book on American affairs might be adduced as an instance of the opposite effect produced.)

The farthest that the assertions go, is that our own citizens, Federal bank directors, may have exerted their influence, and they and their money, which is not proposed to be annihilated by this bill, may, and probably will be brought to bear against us again and again; and the only remedy I see would be to kill them and take their money—this would effectually destroy their influence. To return, sir, to the grand object of drawing out seven millions and upwards of foreign capital from this country. I know that some have asserted with great confidence that the section of the Union North and East of this is saturated with a *moneyed capital, domesticated*, sufficient for all the purposes of its citizens. I cannot prove that this is incorrect, but from the anxiety shown by those people on the subject now before us, by the moderate 18 per cent. loans we have heard of, I should remain a perfect *Thomas* as to the correctness of this assertion. Let me speak of those States concerning which I am better informed—I begin with Virginia because it is nearest. This State is indented with the finest bays

and rivers in the world, her shores are bold and her waters deep, affording ports and harbors in more abundance than are to be found in any State of the Union. Look at the weight of tonnage employed in carrying to the Old World the immense proceeds of this productive country; their citizens equal in intellect and enterprise to any in the world. What is the reason that they pay a transit duty annually to New York, Philadelphia, and Baltimore, to more than double the amount of their State bank stock, in profits to the shipping merchants in those cities, in freights coastwise of the produce, and in the freight also coastwise of European supplies? Does this evidence no want of commercial moneyed capital within the reach of the citizens? Travel through it, compare it with the Northern States—at every step you see apparent the disadvantages it labors under in this respect. Why, sir, the circumstance of the basin at Richmond, with a fall of nearly one hundred feet, remaining for ten years a stagnant pool within the heart of her capital city, when with this power more machinery than is to be found in half the manufacturing towns of England might be propelled, *tells the secret.*

It is a well known fact that the trade of North Carolina, with the exception of a few vessels with naval stores and lumber, makes its humble attainment to the city of New York. South Carolina and Georgia have a small portion of their commerce direct with Europe; but the thousands of bags of cotton shipped from the ports of Philadelphia, New York, and Boston, the circumstance of there being eleven packets constantly trading to New York alone from Savannah, and as many or more from Charleston, show plainly that this transit duty is paid by us also. The French Emperor knows this as well as we do ourselves, and his provision for admitting cotton from New York is not because he did not know the article did not grow there; but because he knew the capital there acted like a loadstone and drew the article from the States in which it grew. I do not mention these things invidiously; I wish prosperity to those cities as well as to the whole Union—but protract not the growth of other parts of the United States by driving out the means from the country by which they have grown, and which, if let alone, might be extended to us also. No man who has attentively considered the rise, progress, and growth of these States, from their first colonization to the present period, can deny that foreign capital, ay, *British capital*, has been the pap on which we first fed, the strong aliment which supported and stimulated our exertions and industry even to the present day. The Southern people, although they have received the goods and sold their crops to British agents and British factors, whether in their own cities or those further north, are not the less republican, nor the less independent in their politics, nor the less free from foreign partialities. I will here mention a fact which I happen to remember, which, among ten thousand other instances, might be mentioned of the benefit derived to the country by the use of this detested for-

eign capital. In the progress of the digging of the Santee Canal, the greatest work of the kind in America, the expense so far exceeded the calculations of the company who had undertaken it, that many of the stockholders, like all sanguine calculators, were straitened in paying up their instalments as they became due—these obtained accommodation at the bank; but even then it was found difficult to progress, and at length the company actually borrowed of the branch bank the funds to complete it, and, unless it has very lately paid, the company still owes a very considerable sum to the Bank of the United States; and but for this accommodation it is more than probable that this great work, which is capable of facilitating to a most convenient degree the transportation of the products of nearly half the State of South Carolina, might never have been accomplished. We have heard much of parties and party spirit in this discussion. I'll tell you, sir, who will compose the parties in the immediate concussion about to be produced by the downfall of this bank—the withdrawal of fifteen millions circulating medium either in actual paper bills, or in bank credits, answering the full purpose of circulating medium, while the merchants are under distress from foreign aggression, and while the Government has commenced its restrictive system on mercantile operations; while it will make the money more scarce, will make it more dear, and, of course, will make property more cheap; produce will fall; it has fallen in consequence of the anticipations on this subject. The small trader, and the young, industrious, and enterprising mechanic and manufacturer, whose stock (and it is the best stock in the world) is his honesty and fair reputation, and on which the banks have advanced him money, must pay off at any and every loss, or perhaps buy his money at the moderate premium of 1½, 2, or 3 per cent. a month. These men, such as the worthy suppliants from Philadelphia represent, will be delivered over to be devoured by the sharks and shavers who are now prowling for their prey among the distresses and calamities you are about to inflict on that class of citizens, the most worthy the care of a wise Government. The parties are the rich cash-in-hand men on the one side, and the great agricultural and manufacturing interest and the small traders on the other. If I had only heard and not seen the gentleman from Tennessee, (Mr. ANDERSON,) when delivering his oration in praise of republican simplicity, I should have thought we had another Diogenes preaching from his tub; but there needs no oratory to convince the mission in your gallery and their friends behind them, that, after the big fish have eaten the little ones, they will neither have motives or means for departing from the chaste frugality and republican simplicity of manners recommended by the words of the gentleman; it will be only those who have fattened upon the spoil who can indulge in the simple style and plain and humble habiliments of our modern Diogenes.

I have said I rejoiced in the prosperity of every

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part of our Union. But, either the gentleman or I have proceeded together upon very mistaken grounds. I thought the seizing of West Florida was, among other objects, to answer the purpose of giving an outlet for the products of Tennessee and the other Western States; I thought, too, the purchase of Louisiana at fifteen millions, to be paid by the whole nation, was for this object also; and I cannot suppose that the effecting of this object would tend to make the people poor, or preserve among them this republican simplicity of manners—on the contrary, I do hope and expect, that it will tend to promote the industry and enterprise of the citizens, and develop the vast resources of wealth, profit, and strength of our western brethren. Perhaps the resolution on our tables, for imposing additional duties on hemp and hempen manufactures, is also designed to promote the wise project of keeping our western brethren from growing too rich, and thereby preserving our republican simplicity.

I have not yet done treating this as a party subject. I did not, it is true, come here to legislate for a party or for any particular Administration—but where I think a measure is subversive of the interests of the nation, and subversive of the party to which I am attached, it is not unfair to take this latter aspect into view also. Let it be recollected that the present Administration have not a single leading (for they arrogate the term as well as the States) paper, republican nor federal, in the nation, except the paper edited here, (which is mild in its tone and not as yet disposed to rush into the fire to defend the powers that be;) I say let it be recollected that there is none of these irresponsible dictators to public opinion who lift a quill in our cause. The constant theme is the baseness and tergiversation of the tenth and eleventh Congress, and the wickedness and corruption of the servants of the public, and ever and anon their lash reaches beyond our shoulder and strikes the Executive also—but more is coming yet from them—they have shown their teeth. It is true we may follow those calling themselves republican in the vote which we are now about to give. But do you think for this act that they will come back to your aid—that they will take us for better for worse? No, sir; when the evils which will be produced by the rejection of this bill, when private distress and public embarrassment shall raise the outcry, they will ride on the winds and direct the storm, and will be the first to cry out there is no energy in us, and to join any intrigue to hurl us from our seats. It is easily to be demonstrated that by the details of the bill on your table, if its friends were suffered to perfect it, it would produce, say in the bonus, one and a fourth millions at least, perhaps two millions of dollars—premium on the five millions of stock to be created, two and half millions. In the whole, at the lowest calculation, three and three-fourths millions of dollars, which will be given up, lost and abandoned by us. Will gentlemen recollect that only half of this sum, taken from the people by the direct tax, hurried Mr. Adams and his friends to their political death? And the people

are not such fools as not to see that what is taken away from the Treasury is taken from their pockets—you may disguise it as you will by procrastinating loans, it will not escape their detection.

And for whom is this mighty sacrifice to be made. If the ministering to the Treasury of the United States is worth to the Bank of the United States so much that it will accept the terms above-mentioned, and you resolve to employ others to do the same thing, is this office, worth so much to the Bank of the United States, worth less to them? This is the lever. Here the real parties are apparent. The nation—the great agricultural interest, the solid yeomanry of the country on one side, and the city influence, the London and Paris influence, on the other. The advantage palpable of nearly four millions of dollars wrested from the Government, and of course from the people, and sent to whom? To the great capitalists, monopolists of State banks, to the Leadenhall-street gentry, whose insatiate maws could not be glutted by the plundering of an empire. Do you believe, sir, that the great body of the people, who are actuated by the impulse of feeling, and who may not indulge in the nice distinctions we have drawn here about the Constitution, but who have experienced the convenience of a circulating medium current over the whole extent of the Union, and who have witnessed your numberless acquiescences to the legality of this institution, and read your laws for punishing those invading its rights, and your numerous laws for trusting, trading, borrowing, and receiving favors from this bank—will this, your recent discovery of its unconstitutionality, be an excuse for giving away twenty per cent. on all their produce, and for the giving away double the amount of that tax, for the imposing of which they condemned your predecessors? I fear for the safety of the Constitution itself. It has been denounced by those who have denounced us. The feeling is quickly transferred from the ministers under the Constitution to the Constitution itself. The clamor has gone forth that we want energy—that the Constitution wants energy—and a vast remedy has already been proposed by the *Aurora* itself—to give Congress the power to lay an export duty upon the productions of the country; more of your London and Paris influence—to lay the agricultural interest under the ban of the empire. Consolidation is the watchword. Preserve your Constitution without abandoning its legitimate powers, such as you have prospered in the exercise of, and I fear not this hobgoblin; but weaken it, place it to lean upon or revolve round any local State policy, and to obey the beck and call of any one or of all the leading States, and the rights and interests of the State I represent, and all the other smaller States in the Union, could not be very much affected by any change.

It is acknowledged on all hands that there is not specie enough in the nation, if applied solely to that purpose, to pay our annual impost. The operations of the Bank of Columbia in transfer-

ring the revenue derived from a part of Virginia (and of the land funds from the westward,) and of the Manhattan Bank, in performing the same office in respect to the collections in Connecticut, have been dwelt upon by the honorable Senator from Maryland (Mr. SMITH.) His arguments drawn from the facts would have been more conclusive if he could have instanced the same facilities afforded to the Government, between banks disconnected by the effect of that neighborhood circulation and of that course of trade very apparent in the instances he has produced. But it is not conclusive at any rate. There is a neighborhood medium of circulation (the State bank paper,) and there is a national medium (the United States paper.) The latter, under the present state of things, corrects the operations of distant banks and renders their transfers easy; but, deprived of this, would any of them, situated at four or five hundred miles, or at one thousand miles distance, agree to make these transfers for the Government free of expense? Could they, for instance, transfer the solid bullion belonging to the United States from Orleans to Boston or Philadelphia, without our affording compensation for freight, insurance, &c? I have witnessed the advantages of this national medium in the State I live in; and in the months of Autumn, when strangers are fearful of venturing to Charleston, our western friends, rather than carry the hard dollars, are in the habit of giving two or three per cent. for bills of the Bank of the United States. Destroy this national medium, you insulate the State banks, which are so far asunder as not to be within the influence of the neighborhood medium of circulation. The stroke of our dreadful wand disconnects the ligament by which they are bound together in their distant operations.

Gentlemen tell us we must use the State banks; and of consequence the State bank notes. Some of these notes happen to be worth nothing—Gloucester bank notes, for instance—and they are graduated in different parts of the continent from par down to twenty or twenty-five per cent. below par, and the market value is in some instances perpetually changing—our Treasurer must, if he can, separate the sheep from the goats—and this is to be perpetual labor. Even good notes at par when received may be useless to the public creditor who is to receive them. A Portland bill, for instance, would not get me a meal's victuals from this *home*, and an Augusta or Savannah or New Orleans bank bill would not have its value understood in New England. Indeed, Mr. President, this chaos—this confusion—about to be introduced in our Treasury, and the legitimate exercise of our Constitutional powers as a Government, is likely, too likely, again to exhibit to the world the distraction, and perhaps, dispersion, (which God forbid!) which the seed of Noah experienced at the Tower of Babel.

I have given candidly my honest views of the subject before us, meaning no uncharitableness to those honorable gentlemen in the Senate who differ with me; and infinitely rather would I,

that after the trial and after long experience to come, all that I have said should be discovered to be founded in error, the effect of a heated imagination, than that my country should suffer a single pang, though in fulfilment of the things I have this day uttered.

Mr. PICKERING.—Mr. President: Having received, from the House of Representatives of Massachusetts, an instruction in the form of a request, "to oppose the renewal of the charter of the Bank of the United States," and some other members of the Senate having received from their respective States instructions to the same effect, I will make a few observations on the subject of instructions.

I was pleased to hear the gentleman from Virginia, over against me, (Mr. GILES,) after reading his instructions from that State, express his opinion decisively, that instructions from constituents were not binding on their Legislative Representatives. Concurring entirely in this opinion, I will offer some reasons to show, that they are erroneous in principle; that they infringe the rightful independence of representatives; and, in respect to members of Congress, that they violate the Constitution of the United States.

In a small community, where all its members can meet together and consult on the measures necessary and proper to promote their common interests, their decisions are the result of deliberation, of reasoning and of the interchange of sentiments. When the members become too numerous, or are too widely extended, to admit of their personal attendance in a general assembly, it seems to be a very natural provision to select a convenient number of them to meet together to manage their common concerns; in the same manner they were before conducted by the whole community. And thus, from the very nature of this institution, it becomes the duty of the persons composing the representative body, to consult, deliberate, and mutually communicate their reasons and opinions; and thereupon finally to decide on the measures requisite to be adopted for the welfare of the community. Hence it follows, that all peremptory instructions, or naked requests, designed to control or influence the votes of the representatives, are subversive of the fundamental principle of a representative Government.

Such instructions or requests, addressed to members of Congress, do also violate the Constitution of the United States. The first sentence in that Constitution is in these words: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Now, therefore, if State Legislatures undertake to dictate, by their instructions, or by requests which are intended to operate equally with instructions, what votes shall be given on any question, by their representatives in Congress, they so far assume the powers vested by the Constitution exclusively in Congress. And if their instructions or requests are obeyed, then the State Legislatures, and not Congress, enact laws for the United States.

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If, indeed, a State Legislature should, in the form of instructions or requests, enter into a train of reasoning, and present arguments which should convince my understanding that any measure under consideration in Congress, was or was not consistent with the Constitution, and exhibit facts which proved its utility or injurious effects, then I should yield obedience accordingly; but to what? to instructions or requests? No; but to reason and to truth.

In another respect, such instructions and requests violate the Constitution, in regard to the members of this body. Senators are chosen for six years. This was intended by the framers of the Constitution, to give them that independence which should secure freedom in thinking and acting. But, if Senators were bound to obey the instructions of their respective State Legislatures, that independence would be wholly destroyed. Indeed, it would put Senators as absolutely in the power of their constituents, as if the State Legislatures had the right to recall and dismiss them at pleasure.

I will now, Mr. President, make some observations on the main question under consideration. Whether Congress have the power by the Constitution to renew the charter of the Bank of the United States?

It has been said that the power to incorporate a bank for the United States is a substantive and original, and not a derivative or implied power. This has been repeated, but I have heard no arguments in support of the position; it is naked assertion.

It has also been called "an act of sovereignty;" as if to alarm and deter us by its awful magnitude. But, sir, the sovereign power of Congress is sometimes exercised on subjects of comparatively little moment. A few days since we passed a bill to authorize the erection of a bridge; and another, to change the name of an individual, to enable him to inherit an estate. The power of Congress is sovereign to all the purposes of the Constitution. They can lay and collect taxes, duties, imposts, and excises; borrow money, regulate commerce, and make all needful rules and regulations respecting the territory and other property of the United States. And they have the power to make all laws necessary and proper to carry the foregoing and all other Constitutional powers into execution. When proposing to exercise this general power, in any case not expressly mentioned, we have to consider whether it be "necessary and proper." It has been said that "necessary" here means indispensable; something without which a particular power expressly granted cannot be carried into execution. But, sir, I see no ground for this interpretation. In the affairs of a nation, or other community, whatever the public good requires to be done, is necessary and proper to be done. It is a moral, not an absolute necessity. It is necessary for me to be here, in my place, because it is my duty to be here. Necessary and proper are opposed to unnecessary and improper. Congress should do no act unnecessary and improper; but,

like State Legislatures, do whatever is necessary and proper to attain the objects for which they are respectively constituted.

In determining whether any proposed measure be necessary and proper to carry into execution any power expressly given to Congress, we have to consider whether that measure have a just or useful relation to the end. For instance, the Constitution having prescribed no mode of collecting the revenues, it rested in the discretion of Congress to adopt such a mode or such modes as should appear to them best adapted to that object. Instead of appointing custom-house officers in the large commercial cities and towns, where a banking establishment could be supported, Congress might there have erected banks, as the most certain, punctual, and cheap mode of collection. Suitable officers of a bank might have performed all the duties of entering and clearing vessels, and all other duties pertaining to the custom-house, without any charge to the public; the deposits of the public moneys so collected in those banks, upon which the usual banking operations might be carried on, yielding an adequate compensation for all the services so performed.

The public revenues, when collected, must also be safely kept. An experience has demonstrated that, of all depositaries, banks are the safest. And the same experience has shown that, as the public moneys are required to be frequently transferred, for the public expenditures, from one State to another, the Bank of the United States, with its branches, has furnished the best mode of transfer; it being effected with dispatch, with certainty, and without any risk or expense to the United States.

The gentleman from Kentucky (Mr. CLAY) asked, if banks are necessary for collecting the public revenues, why give them any other power? The answer is, that it is the essential nature of banks, which renders them so peculiarly fit to collect the revenues. The merchants, whose bonds are lodged in the banks for collection, are also borrowers of money from the banks; and if they fail of paying their bonds, as they become due, their credit will fail; they can obtain no more loans until their bonds are paid. This has just been presented to our view, in the most striking manner, by my colleague.

"To borrow money," is another of the great powers expressly vested in Congress. And in this, as in the power first considered, no mode of borrowing being prescribed in the Constitution, Congress are to devise and provide the means in their judgment most sure, expeditious, and ample, to obtain loans. And this was one of the great objects for which the Bank of the United States was originally incorporated. The gentleman from Virginia, near me, (Mr. BRENT,) and the gentleman from South Carolina, (Mr. TAYLOR,) have, in very forcible language, displayed the impolicy of depending on State banks or individuals for loans, in public emergencies. At such times, these banks and individuals may be most hardly pressed by their usual customers. To suffer the Bank of the United States to dissolve,

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and to have recourse to State banks, will be so far going back to the condition of the United States under the articles of Confederation, when our Union was but a rope of sand. When the pressure of the Revolutionary war was over, indeed, while that pressure remained, Congress in vain made requisitions on the individual States; no money, or none in any measure adequate to the public exigencies, could be obtained. After the war, when the public treasury was empty, Congress importuned—implored the States, individually, to grant the power to raise a revenue from commerce, to defray the current expenses of the General Government, and to fulfil the public obligations, but the power could not be obtained. States, deriving large revenues from commerce, chose to retain them for their own treasuries.

It was this helpless, forlorn condition of our country, which forcibly convinced the nation of the necessity of forming a new system of Government; and our present Government was the fruit of that necessity.

"To regulate commerce" is a third great power vested in Congress. And it is conceived that the exercise of any power well adapted to give safety, facility, and prosperity to commerce, must be comprised in the power to regulate it. Hence the erecting of light-houses has been mentioned as an instance in which an implied power, incidental to the regulating of commerce, has been exercised. But it has been said that this power is expressly given in another part of the Constitution; that by which Congress is vested with exclusive legislation over the district which is the seat of Government, and over places ceded to the United States "for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." But if we had no commerce, no navigation, light-houses would not be "needful buildings," they would be of no use whatever. Hence it is clear that they have a direct relation to commerce and to nothing else; and, therefore, the erecting of them is properly adduced as an instance of the exercise of a power implied in the general express power to regulate commerce.

The safety and facility of commercial operations was also greatly to be promoted by means of a general currency which should have equal credit throughout the Union. This has been accomplished by the notes issued from the Bank of the United States, under the authority of Congress, exercising the power incidental to that of regulating commerce.

A fourth great power, which I mentioned to have been vested in Congress, is that of "making all needful rules and regulations respecting the territory and other property of the United States." This "other property" consists partly of money. And, as Congress have power to make any regulations concerning it which are needful, that is, which may, in their opinion, best promote the general welfare, this money may be (as some of it has been) vested in bank stock; and, with the truest regard to its safety and good management, in the stock of a bank erected by Congress, of which they may have a suitable inspection; and

where it may safely deposite the public revenues, there to await the public demand; and, in the mean time, usefully aid those banking operations which give facility to commerce and to public loans.

But as an evidence that the constitutionality of the act to incorporate the Bank of the United States was at least doubtful, we have been told by the gentleman from Maryland, (Mr. SMITH,) that President Washington doubted; that his mind was in suspense to the last moment, when the act was to be approved or disapproved. That while the then Secretary of the Treasury, (Mr. Hamilton,) a very great man, maintained the Constitutional power of Congress to erect that bank, another man (Mr. Jefferson) equally great, then Secretary of State, and the Attorney General, (Mr. Randolph,) a distinguished lawyer, maintained the contrary doctrine—that Congress had not that power. It is true, sir, that Washington, cautious and circumspect beyond any man I ever knew, did suspend his decision to the last day allowed him by the Constitution. The confidence with which the Secretary of State and the Attorney General supported their opinions on this question, was sufficient to excite in the President the greatest caution. Both were lawyers, and they raised many legal objections. The written opinions of these gentlemen were (as I have been well informed) put into the hands of the Secretary of the Treasury two days before it was necessary for the President to decide. And the reasoning of Mr. Hamilton, in his written argument, enabled the President to decide with satisfaction; with a full conviction of the constitutionality of the act.

The following are some of the objections offered by the Secretary of State. He said—"that the proposed incorporation (of the bank) undertakes to create certain capacities, properties, or attributes, which are against the laws of alienage, descents, escheat, and forfeiture, distribution, and monopoly. And that nothing but a necessity, invincible by other means, can justify such a prostration of laws which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State governments." Washington, sir, was not a lawyer, and who can wonder that his fair mind was alarmed by such a solemn declaration? That it was kept in suspense by the assertion, that the act for establishing the bank would overturn the pillars of our whole system of jurisprudence, and the foundation laws of the State governments? But, sir, it required only the knowledge of a lawyer at once to overturn these objections. The following are some of the remarks of the Secretary of the Treasury: "If these are truly the foundation laws of the several States, then have most of them subverted their own foundations. For there is scarcely one of them which has not, since the establishment of its particular constitution, made material alterations in some of those branches of its jurisprudence, especially the law of descents. But it is not conceived how anything can be called the funda-



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'mental law of a State government which is not established in its constitution, unalterable by its ordinary legislature."

"To erect a corporation, is to substitute a legal or artificial for a natural person; and, where a number are concerned, to give them individuality. To that legal or artificial person, once created, the common law of every State, of itself, annexes all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence. It is certainly not accurate to say, that the erection of a corporation is against those different heads of the State laws; because it is rather to create a kind of person, or entity, to which they are inapplicable, and to which the general rule of those laws assigns a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country. Those of descent cannot apply to it, because it can have no heirs. Those of escheat are foreign from it, for the same reason. Those of forfeiture, because it cannot commit a crime. Those of distribution, because, though it may be dissolved, it cannot die." Sir, I beg leave to add a few explanations. By the laws of most, perhaps of all the States, aliens are not permitted to hold real estate; but in all they are free to hold personal property of every kind, and particularly bank stock. The law of escheat relates to the property of a citizen who dies without heirs, near or remote, and without a will. In such case his property falls to the State. But instances of escheat do not occur perhaps twice in a century in any State, and, consequently, is of trifling moment. Although a corporation cannot commit a crime, it may violate the rules prescribed in the law for its establishment, and thus incur an immediate forfeiture of its charter. Or, if for such a violation of its fundamental law, or any mismanagement of the institution to the public injury, its charter be not forthwith taken away, the State may refuse to renew it. As to the law of distribution, that operates when a person dies intestate. But though a corporation cannot die, yet the individuals to whom its property belongs will die; and their bank property, equally with their other property, becomes liable to the law of distribution.

One gentleman has imagined, that if Congress have and exercise the power of erecting corporations, it will operate as a monopoly; and may, in the end, destroy all the powers belonging to the individual States. But there is here no ground for alarm. The act of Congress which established the Bank of the United States, did not and could not affect the rights of the States to erect banks. Accordingly we have seen, after the Bank of the United States had been erected, and the profitable operations of banks to their proprietors were known, that State banks sprang up in abundance.

It has been said, by more than one gentleman, that the greater portion (as far at least as seven-tenths of the whole) of the stock of the United States' Bank being owned by foreigners, and

these chiefly Englishmen, there is danger of a foreign influence in the country, and that such an influence has been manifest. This, sir, appears to be an extraordinary remark. In what has this influence been manifested? Has the Government, have individuals, been in any degree restrained in the expression of their resentments against Great Britain—or in adopting any measure deemed advisable towards that country?

One of the injurious consequences of destroying the Bank of the United States has been stated to be, the withdrawing of seven millions of dollars from the active capital of the United States, and transmitting it to Europe, where that portion of the bank stock is owned. To this it has been answered, by the opposers of the bank, that these millions will not be withdrawn, but transferred from the United States' Bank to banks of the several States. How then, sir, shall we get rid of that dangerous influence of foreign stockholders which the same gentlemen urge as a reason for not renewing the charter of the Bank of the United States? Sir, it is well known that money in Europe is less valuable than in the United States. That moneyed men there are glad to loan their money at an interest of five per cent. or less, while in these States the legal interest is six per cent. And a multitude of our citizens find their account in employing that foreign capital, paying an interest of six per cent., by which, in the course of trade, they gain ten, fifteen, or twenty per cent.; that foreign capital, in the hands of our merchants, has resembled the five and the ten talents, wherewith they have gained other five and other ten talents.

The distresses which will follow the dissolution of the Bank of the United States, especially in the great commercial cities, have been forcibly described in the plain testimonies of the committee of mechanics and manufacturers from Philadelphia—a committee selected wholly from the democratic party; distresses which were sufficient to move a heart of stone. And why should this bank be dissolved? It has been said that the State banks are competent to all the necessary operations of the general bank. If the contrary had not been shown, it might be answered, that the Bank of the United States was incorporated when there were only three banks in the United States: one in Philadelphia, one in New York, and one in Boston. These were inadequate to the necessities and accommodation of the General Government and of the citizens. To supply this deficiency, it was necessary to erect the National Bank; and the dignity, honor, good faith, and credit of the United States stand pledged for the renewal of its charter. The institution having been well conducted, and found in the highest degree useful and beneficial to Government and to the citizens at large, it ought to be continued. Individual citizens and foreigners became stockholders on a well grounded expectation of the stability of the Government. It was in this just expectation that foreigners, Englishmen, purchased of our Government, itself, its remaining shares of the public stock in, the Bank of the

United States, and at an advance of forty-five per cent.; so that, for every hundred dollars laid out by the Government in the purchase of bank shares, the United States received of these foreigners one hundred and forty-five dollars. And how was it possible for these foreigners to conceive the Government capable of destroying the work of its own hands, and of reducing their property to one hundred dollars a share, for which, but eight years before, they had paid the same Government one hundred and forty-five dollars?

In limiting the duration of the charters of banks to twenty years, no wise Government ever contemplated their destruction at the end of that term. Known to be useful institutions, the proprietors have well founded claims to their continuance, which the public good also requires. But, in the course of twenty years, some inconveniences may be experienced which ought to be remedied, and some improvements discovered which ought to be adopted. Besides, being profitable to the proprietors, they can well afford, once in twenty years, to give to the Government considerable sums of money in acknowledgment for the benefits derived from the acts of incorporation.

But, sir, in respect to the English stockholders in the Bank of the United States, (and the foreign stockholders are chiefly Englishmen,) we are under special obligations by the treaty with Great Britain in 1794. The tenth article being permanent, is still in force, and in these words:

"Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; it being unjust and impolitic that debts and engagements, contracted and made by individuals having confidence in each other, and in their respective Governments, should ever be destroyed or impaired by national authority on account of national differences and discontents."

Sir, this is the very time when the equitable obligation of this treaty (and as a matter entitled to consideration in equity I introduce it) applies with force. We now have national differences with Great Britain, and a stock of discontents sufficiently strong and extensive. By "destroying" the Bank of the United States, (and to refuse to renew its charter is to destroy it,) we essentially "impair" the "engagements," not of individuals only of the one nation with individuals of the other, but the "engagements" of our Government itself with some of those individuals. When the Barings purchased of our Government two thousand two hundred and twenty shares of stock in the Bank of the United States, for which they paid one million two hundred and eighty-seven thousand and six hundred dollars, would they have made the purchase if the Government had intimated its intention to destroy the bank in eight years? No, sir. By the dissolution of the bank, the stock so purchased being reduced from one hundred and forty-five to one hundred dollars in value for each share, a difference is

made to the Barings of three hundred and ninety-nine thousand and six hundred dollars, which they lose.

Sir, I have no personal interest in the Bank of the United States. I am no stockholder; I have not the means of being one. Nor is the branch at Boston of equal import to the citizens of Massachusetts, with the bank itself and its branches to the inhabitants and commercial cities of other States; although the withdrawing of seven or eight hundred thousand dollars from the banking capital of Boston would undoubtedly produce some serious inconveniences. But, sir, I consider the Bank of the United States, with its branches, of immense importance to the citizens of the United States, and a necessary instrument in the hands of the Government, in the management of our great national concerns. I shall, therefore, give my vote for the renewal of its charter.

MR. BRENT.—Mr. President, having been prevented from finishing the remarks which I had intended to make on the subject under discussion when I last had the honor to address this body, from the late hour of the day to which it was detained, I will avail myself of this opportunity to make a few desultory observations, which the want of time prevented me from heretofore submitting to your consideration. I formerly remarked, that many gentlemen had avowed that the principal cause that induced them to vote against this bill was the large portion of the stock of the Bank of the United States which was held by foreigners, which caused a foreign influence to exist in this country, which was incompatible with its safety; and that, after the termination of this bank, they were willing to join in the creation of another in which our own citizens only would be interested. I insisted, that if it was desirable to get rid of foreign stockholders, (which I did not believe,) this could not be effected by the destruction of that bank, for the reasons I then had the honor to suggest. I will here add one or more additional reasons why I entertain this opinion. If foreigners can employ their capital here to greater advantage than in their own country, it will be impossible to prevent them from subscribing to the shares of the new bank you create. If you propose to do so by prohibiting them from being stockholders, the law will be avoided by the subscription being made in the name of our own citizens, who will hold it for foreigners; or, even if the shares should be wholly taken by our own citizens, they will afterwards sell to foreigners; so that the same foreign influence exists, (if such is the effect of stock being held by foreigners.) Nor, sir, is this apprehended foreign influence in any degree diminished, if this bank is destroyed and a new bank should not be created. In such a state of things, those foreigners who, if there existed a Bank of the United States, would have invested their money in its stock, now invest the same quantity of money in the State banks. Of course the same extent of foreign influence (as far as foreigners holding our stock produces this result) in either state of things exists. This reasoning, Mr. President, is ad-

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dressed to those only who are so very apprehensive of the dangerous influence which the investment of foreign capital here produces. For myself, I entertain no such fears; and for the reasons I have heretofore had the honor of stating, do very much question whether it is not most advantageous that foreigners should hold extensively the stock of our banks.

Some gentlemen are anxious for the dissolution of the bank, because they are of opinion that banks of every kind and under every modification are injurious. Perhaps they may be so. But does the destruction of this bank remove or diminish the evil society is to suffer from the existence of banks? If this bank is dissolved, the State banks will exist, and new ones be created to fill up the vacuum of bank circulating paper which is produced by the dissolution of this bank. If the community is to be oppressed with such institutions as banks to the same extent, whether or not there exists a National Bank, is it not better to have a National Bank than to put the Government to the necessity of carrying on its fiscal arrangements by the co-operation of State banks, which are in no respect under its control?

Among other reasons urged by the honorable gentleman from Maryland why there would be no inconvenience attending the dissolution of the Bank of the United States, indeed why there would almost be an advantage from such a measure—he insists there is at this time about \$20,000,000 due our merchants from those of England, and such was the deranged state of the commercial resources in that country, that our merchants could not now obtain payment of their British debts, but that on the dissolution of the Bank of the United States this seven millions of stock which was held by foreigners would be applied in part payment to our merchants of the debt due to them from the British—so that this money would not go out of the country, but would be immediately paid to our merchants and go to that extent to the increase of their resources.

Now, Mr. President, it appears to me, notwithstanding the high respect I entertain for the honorable gentleman's mercantile and political knowledge; that in this instance his opinion is not accurate. Either the British merchants that are indebted to ours are solvent or otherwise. If the first, they can pay our merchants the \$20,000,000 they owe them in the present state of things; if they are not solvent, is it to be believed that the stockholders, after receiving money from the bank to the amount of their stock, will, with this money, purchase bills which will be protested for non-payment? For such must be the result if the British merchant is not at present able to pay his debts to our merchant. To me it seems most probable that on the dissolution of the bank one of two events will take place. Either the seven millions, the amount of foreign stock, will be invested in our State banks, or it will be remitted to Europe in actual specie. If it should be invested in our State banks, the same extent of foreign influence remains in our country which we are so anxious to get rid of—and so far as re-

lates to this difficulty, the dissolution of the present bank has no operation. If these seven millions are not invested in State bank stock, and good bills cannot be obtained to transmit it, as is clearly deducible from the statement of the gentleman from Maryland, then it must go in actual specie. An honorable gentleman from Massachusetts, of great and unquestionable mercantile information, has supposed there is not in the United States more than ten million of dollars in specie. If by the dissolution of the bank seven of these ten millions are to be exported from our country, will it not be attended with serious consequences, more especially since it has already been discovered that the quantity of the precious metals in the United States has for some years past been diminishing to such an extent that it has been thought by several important that Congress should take some steps to guard against the continuance of this evil? Another reason which might induce the holders of this stock, when the amount is paid off, to transport the specie instead of purchasing bills, is the great and increasing difference in value between the actual value of the same nominal amount of paper and specie in England. In the remarks which I heretofore had the honor to submit to the Senate, I suggested that it was more than probable that the dissolution of the Bank of the United States might seriously affect our revenue. In addition to the reasons then insisted on as leading to this conclusion, permit me, Mr. President, to remark, that if at the same moment you diminish the circulating medium of the nation (which to a certain extent is effected by destroying the Bank of the United States) and call upon your merchants immediately to pay fourteen millions of dollars, the amount of the debt they owe the banks, and at the same time to pay twelve millions to the Government, which is the amount of the bonded revenue, at a period when our commerce has been struggling for many years with the accumulated difficulties produced by spoliations, by embargo and non-intercourse laws—I say, Mr. President, under such circumstances, is it unreasonable to entertain some apprehension that our merchants, finding themselves unable to surmount all the difficulties with which they are surrounded, will in their choice of difficulties pursue the common dictates of prudence, and choose the least? Is it not probable that they will in the first instance take every step to secure their bank endorsers by settling their debts with the bank and leave the Government to bring suit on their revenue bonds? Such an event is the more to be deprecated, as this is, of all others, a period when we should be cautious about adopting any measure which would diminish the receipts of our treasury, already much curtailed by our late embargo, and which will be considerably affected by our non-importation law.

The remark I made some days past, in relation to a supposed incapacity of the Bank of Virginia to the wants of the country, was, that it had been suggested to me that it had produced in Richmond a great deal of usury, or, as it is commonly

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called, money-shaving. In making this observation, Mr. President, it was not my intention to reflect in the most distant manner on the president or any of the directors of that bank. I know not the name of any one gentleman in the direction. For all that I know, or have heard, the affairs of that bank are as ably and as honorably conducted as those of any bank in the United States or elsewhere. The fact which I stated was one which I suppose to be an unavoidable result when you go into the banking system and do not create a banking capital adequate to the wants of society. If you establish a bank with an inadequate capital, favorites go into the bank, get the money out of it, and apply it to usurious purposes; it is no reflection on a bank to say that it has its favorites. When more applications are made or more good paper offered than can be accommodated, a selection must be made, and some applicants remain unaccommodated, who will be compelled to give usurious interest to those who have been accommodated for the very money which this accommodation has supplied them with. My honorable colleague is of opinion that the Bank of Richmond has a capital of sufficient extent, and that all who deserve accommodations there can obtain them. I can only say that I have repeatedly heard a very different statement in Richmond and elsewhere. Another fact, too, I beg leave to mention. I am well acquainted with a very intelligent officer of the branch bank at Petersburg, who has informed me that almost always more good paper is offered to the board of directors than could be accommodated, from the limited extent of their banking capital; and it would seem an extraordinary phenomenon, that when Richmond and Petersburg are only twenty-five miles distant there should be a redundancy of banking capital at the former and such a deficiency at the latter.

I now, Mr. President, approach the discussion of a question which excites with me more sensibility than is produced by any consideration connected with the subject now deliberated on. It is principally with a view to investigate this delicate and interesting question that I have been induced at the present hour to solicit the attention of this honorable body. We are told that this question concerning the rechartering of the Bank of the United States is a party question, and from the vociferous and earnest reiteration of this assertion, it is evident that this invidious inference is intended to be derived from it—to wit: that at the first establishment of the Bank of the United States it was contested on Constitutional grounds, and that its favorers or its opposers marked the Federal or Republican character, and designated the individuals who formed the body of these two great political sects; that the same characteristic adheres to the bill now before us, and that such of those who have heretofore been considered as appertaining to the Republican party as give their sanction to this bill must hereafter be considered as apostatizing from that political sect with which they have heretofore been arranged. I will first inquire into the

justice of this assertion as it relates to the matter of fact, at the first establishment of the Bank of the United States; and next, as to the honorable and generous inference which these magnanimous asserters attempt to derive from it.

[Mr. S. SMITH wholly denied that he had ever called this a party question or viewed it in this light]

Mr. BRENT said that he had never heard the honorable gentleman make such an assertion, but he had been informed it was attributed to him. The honorable gentleman's declaration is, however, perfectly satisfactory to me; I am satisfied that he is incapable of making so invidious and unfounded an accusation; I am too well acquainted with that honorable gentleman's good sense and liberality. He will therefore be so good as not to consider any remarks I shall make on the particular question that I am now investigating as applying to him, but to others who act with him as to the general and ultimate fate of the bill under consideration. That among the great mass of people in some sections of the Union, particularly the State I represent, this measure establishing the Bank of the United States was taken up as a party question, may be admitted; but that it was viewed in this light in either House of that Congress which passed the law; that the votes which were given either affirmatively or otherwise were the test to ascertain who was of the Republican and who of the Federal party, is an assertion destitute of all foundation; for whoever will examine the yeas and nays of both Houses of Congress will find some of our most distinguished Republican patriots voting for the bill, while others equally eminent and zealous in the Federal ranks will be found in hostility to it. Sir, the Journals of Congress, testimony derived from solemn and unquestionable records, a species of evidence which the laws of our country and the practice of our courts in the gradation of the different species of testimony places in the highest station and considers as of the most imposing authority, demonstrate that the assertion that the question concerning the establishment of the Bank of the United States in the first instance was entirely a party question, is destitute of all foundation; that an assertion so susceptible of refutation by testimony so irresistible should have been made, is evidence to me of the unjustifiable length to which some gentlemen will permit their zeal to transport them. Nay, Mr. President, let me call your attention to the only member, as I believe, of this honorable body who was a member of Congress when the law establishing a Bank of the United States took place, (I mean the honorable Mr. GILMAN.) This gentleman is known to be a Republican; yet the journals will assure us that he voted for the bill establishing the bank.

If the opinion of the constitutionality or otherwise of the Bank of the United States is the criterion by which the estimate is to be made of the political sect to which each individual belongs, what shall we say of Mr. Jefferson and the majorities of the two Houses of Congress during his

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Administration, who by repeated acts recognised the legality and constitutionality of this institution? Shall we say that he and they have apostatized from the Republican cause? Do the presumptuous and daring assertors pretend to impose upon us a belief that, during a period which we have hitherto supposed was the proudest triumph of republicanism, those of the dominant party had apostatized from the Republican cause? Are we to believe that, during the Administration of Mr. Jefferson, the great apostle of republicanism, one with whose name republicanism has been supposed to be identified—are we to believe that he has apostatized from his political party? Are there any so presumptuous as to imagine they can impose upon the public mind or upon this honorable body so monstrous, so absurd a belief? Can you be induced to select that moment which has hitherto been imagined most auspicious to Republican principles as the one when above all others there was a total apostasy from them? No, sir, every effort is vain which is made to impose upon us so irrational a belief. On the contrary hand, we will account for the conduct of Mr. Jefferson and the Republican majorities in Congress during his Administration, when they sanctioned by repeated laws the constitutionality of the Bank of the United States, by the considerations I proceed to enumerate. Whatever might have been the abstract opinion of Mr. Jefferson respecting the constitutionality of the bank on its first institution, it is now immaterial to inquire. He saw, when he came into the Presidency, that this was in its origin not a party question; but that the Journals of Congress would evince that on the vote which first gave a sanction to this measure all party distinction was confounded; that it was one of those questions, which, when first agitated, was calculated to produce a diversity of opinion among men of the purest intentions and of the most luminous understandings; that it was one of those doubtful questions which, when once settled by precedent, should never again be agitated; that this measure had been sanctioned, after the fullest deliberation had been bestowed upon it; and that we had so incorporated this bank establishment with our fiscal and other Governmental arrangements, that it could not at that time be put down without impairing the public credit, and without being like (in various other points of view) to be productive of very serious and numerous calamities to the community. From all these various considerations, Mr. Jefferson, when he came into the Administration, as also the majority of Congress during that period, considered the question respecting the Bank of the United States as a settled and adjudicated one, which was now to be acquiesced in, and pursued a system of policy in conformity with this sentiment. On any other principle the conduct of Mr. Jefferson and of Congress would not only not be justifiable, but would be criminal in the highest sense. If they had considered this a party question, a measure which the Federal party, during its ascendancy, had established, contrary to the manifest and unquestionable principles of the Constitution, (as some gen-

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tle men now contend,) every step that was taken to sanction this unconstitutional measure, was inflicting a new wound on the Constitution, and a violation of the sacred oaths they had taken to support it. To say that it was done for the support of public faith, because the law incorporating the bank had made a contract with individuals, is irrational and fallacious, because no unconstitutional law can pledge the faith of Government. An unconstitutional law incorporating a body of men can give them no legal existence which can be binding on a subsequent legislature. It is, as was well observed by my colleague, to enter into a contract with an idiot or married woman. The contract is *ipso facto* void. If an unconstitutional law cannot pledge the faith of Government, or a subsequent legislature; nay more, if it is incumbent on a subsequent legislature to repeal such unconstitutional law; then the law establishing the Bank of the United States, if it is of this description, (that is, evidently unconstitutional,) imposed no other obligation on Mr. Jefferson and his Republican majority than immediately to repeal it, and to restore to its original purity that Constitution they had sworn to support; but when the very opposite conduct is pursued, we must presume it was done from an idea that the constitutionality of the bank in its origin was one of those questionable principles which might create doubt between individuals of all parties, and on which men of the best understanding might pause and hesitate; but being once determined on, was to be considered as an adjudicated case, which the repose of society made it proper should never again be drawn into discussion. This, sir, I think, is a justifiable inference. Are we not then warranted in saying, that the assertion that this is a party question, with all the bearings it is intended to have, is destitute of all foundation? That the law concerning the Bank of the United States was not in its origin a party question, is demonstrated by the Journals of Congress. Whenever this measure was agitated during the Administration of Mr. Jefferson, it was not taken up as a party question, because all parties gave it their concurrent support. It remains to be inquired whether on the present occasion the bill under your consideration is to be viewed as a party question. In order to ascertain the character of a question, that is, whether it is a party one or not, it is first necessary to ascertain who are the different individuals that constitute the different parties, and how these individuals stand in relation to the question to be decided on. If all or almost all of each political sect are arranged, one for, the other against the measure, then it may be deemed a party question; but if a very large portion of one of your political parties, carrying with it some of your most distinguished members, is found opposed to another portion of its own party, you can no longer call this a party question.

Each portion of this divided party may claim its exclusive identification with the party itself, and upbraid the other with the epithet of apostate; but their pretensions will not be admitted

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unless supported by higher authority than that which is derived from the arrogance of one section of this divided party. When I view the Journals of the House of Representatives, and cast my eyes over the yeas and nays on this question, as decided there some days past, and find some of the most zealous and distinguished Republicans in the affirmative; when I reflect on the number and great weight of character of the Republican members of this honorable body who concur with me in opinion that it is proper the re-incorporation of the bank should prevail, I consider it as the height of arrogance, and the most baseless of all unfounded pretensions, in those of the Republican party who are opposed to this measure, to call this a party question, to identify themselves exclusively with the Republican party, and to insinuate that such Republicans as vote for this bill have abandoned their political principles. By what authority can those Republican gentlemen, who oppose this bill, appropriate exclusively to themselves the character of Republicans; are there not, among those of the Republicans who are in favor of this measure, men of as great weight of character as those who are opposed to them; men, who can offer as distinguished and as proud and elevated pretensions for the zeal, the diligence, the fidelity, and the fortitude they displayed in the Republican cause during the period of its adversity, as any this country contains? Who, sir, in the hour of difficulty, at that period which tried men's souls, when republicanism meant more than a name, and its advocates were stigmatized as factious demagogues and upbraided with every odious epithet—who, sir, at this inauspicious moment occupied a more eminent and distinguished station in the Republican ranks than the present Secretary of the Treasury, who is the first to recommend this measure? And is Albert Gallatin, one of those who pre-eminently contributed to form the Atlas, on whose shoulders the fate of Republicanism rested, at the moment when it was surrounded with such numerous and ferocious assailants—is he not a Republican? Nay, Mr. President, are there none in this body of the veteran politicians who contributed to form that Spartan band who so nobly defended the Republican cause, when it exposed its advocates to every species of obloquy and political persecution—are there none of that description in this body that mean to vote for this bill? It will, with justice, not be denied. Mr. President, who are the characters who have proclaimed this to be a party question? Does my colleague, who was inferior in zeal and efficiency to no one in the Councils of our country, at the crisis I have been speaking of—does he call this a party question? Does the honorable gentleman from Maryland, who also bore his share in the honorable conflict for Republican principles; does he call this a party question? No, sir, they each know the reverse, and are too honorable and just to make such an insinuation. It is not, sir, from those political veterans whose standing might justify them for making some pretension,

that this exclusive claim to Republicanism is insisted on, both within and without our doors. It is made by characters that at the period of Republican adversity were not known in the Councils of our nation, or were perhaps in most instances boys at school; and are these unflinching, fair-weather politicians, in these halcyon days of Republicanism, to attribute to themselves the exclusive monopoly of Republican principles, and stigmatize as apostates those veteran politicians to whose persecutions and exertions the triumph and preservation of Republican principles can alone be attributed? These, sir, are modest pretensions, and the public will duly appreciate them when they learn the source from whence they come and the characters to whom they are to be applied. If to be of an opinion that there is a Constitutional power in the General Government to establish a National Bank, is an apostacy from the Republican cause, then Mr. Jefferson and the two Houses of Congress during his Administration, who considered this a settled and an adjudicated point, and in repeated instances legislated on this principle, and passed laws recognising the constitutionality of such an institution—then, sir, Mr. Jefferson and the majority of the two Houses of Congress during his Administration have apostatized, as also has Albert Gallatin, who, relying on the score of precedent, has considered this as an adjudicated question, and in his report recommended its adoption—he also has apostatized from the Republican party. Mr. President, I remember to have heard an instance mentioned when a gloomy and ferocious fanatic was pronouncing eternal damnation on all who died without the pale of his church—that a more benevolent and liberal person who heard him, in order to obviate such monstrous doctrine, enumerated a great many of the most amiable of their common acquaintance and even relatives whom the hand of death had taken from them, that were not of the same religious tenets with this fanatic, and interrogated him what had become of each of these amiable and dear friends and relations? The fanatic replied, they were all in hell; to which the interrogator rejoined that he also would go to hell, for he was sure if the information he had just received was true he should find better company there than in any other region he could repair to. With the same desire to get in good company, if Mr. Jefferson and the majorities of Congress, during his Administration, and Albert Gallatin, have apostatized from the Republican party, I also am content to be an apostate. I am sure I know of no political sect that have manifested opinions so congenial with my own as they have done, and with them I wish to be associated.

Mr. President, I beg leave to remind these newborn, unknown, self-created, exclusive Republicans, who hurl apostacy and other denunciation with such liberality against all that will vote for this bill, that many of their own party, many of those who vote with them, avow a belief, that Congress has the power to create a bank, but they do not think it expedient at present to re-

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charter this bank. I understand the honorable member from Maryland has candidly and honorably avowed this opinion—many others are known to entertain the same sentiments, (though they will not acknowledge them with the same candor,) who have and will vote against this bill. To those who entertain this sentiment how can this be a party question? The only incident which gives it the character of a party question is, the opinion that a such a law is Constitutional or otherwise; and a determination to vote in the affirmative or negative, as that opinion shall dictate. Now, to such gentlemen as believe the law Constitutional and yet vote against it, it cannot be a party question. Those who are in this situation, and endeavor to overthrow the bill by the prejudices they may create against it, by affecting to call it a party question, though secretly and in their own minds they entertain no such belief—such gentlemen, Mr. President, as act in this manner, fight under false colors.

Mr. President, it is painful for any gentleman when addressing this House to speak of himself, and to make his past political conduct the theme of his observations; but, in an instance like this, when insinuations are made so calculated to excite the most poignant sensibility—when a charge of inconsistency and dereliction of former political principles is made, it is pardonable to take a review of our past political conduct, for the purpose of repelling charges which create emotions proportioned to the ardor and fidelity with which we are conscious of cherishing those principles which we are accused of having abandoned. During the most arduous conflicts of the Republican party, at a time when it was borne down by domineering and tyrannical majorities, although I occupied no prominent station, it certainly was not my fortune to repose upon a bed of roses. It was at this most inauspicious period, as it respected the fortune of the party to which I was attached, that I first acquired a seat in the other branch of the National Legislature. The four years during which I retained it may be considered as the very time, when, above any other, party intolerance was carried to the greatest excess; when a Republican was almost hunted down in the streets of Philadelphia, where Congress then sat; when the Republican members were reduced in Congress on great and critical questions, which served most precisely to designate the two parties, to a very inconsiderable body; when, to be called a Republican, was, in the estimation of the dominant party, to promulgate outlawry against you in the code of humanity, and to cut you off from almost all the charities of life; at this period, sir, it was my fortune to represent the only Federal district in the State of Virginia, (and to be the only Republican representative that this district either before or after elected to Congress;) it was my fortune to receive during this adverse and tempestuous period almost innumerable addresses from my constituents, which I was made the organ to present to the President of the United States, stigmatizing with the severest animadversions my political

conduct and that of the party with which I thought and acted. Let the Journals of the House of Representatives during this alarming and eventful crisis be examined, and let the recorded votes of that body be resorted to in order to ascertain whether I was inferior in promptitude, fidelity, and ardor, for the Republican cause, to any member of the Republican party. During the whole of this period I was suffering under the most painful state of ill health, yet such was my anxiety to show my disapprobation of the ruinous measures pursued by the then dominant and infatuated party, that I occupied my seat in Congress, in very many instances, when, if I had attended to my own ease and health, I should have confined myself to the bed; and I challenge the most minute and accurate investigator to point out one instance where any measures were taken in Congress calculated to interest party feeling, when I was absent from my post, or failed to attest by my vote the sincerity of my devotion to the Republican cause. Under these circumstances, I had flattered myself that I had some humble pretensions to the public confidence, when I professed my early and continued devotion to the principles of republicanism, but I discover that I am mistaken, and that a new order of fortunate politicians have come into existence in the present propitious hours of republicanism, and have so exclusively engrossed the whole of this precious commodity, that they will not permit their elder order of political men, to whose exertions it is indebted for its very existence, to have one particle of it. If this new created order of patriots will banish me, and all who think with me, on this occasion, from the Republican ranks, they cannot deprive us of this consolation, that, in the state of exile and denunciation, they place us in company at least as respectable as that from which we are driven. If to be associated in the same political class with the late President, with the majorities of Congress during his Administration, and with the Secretary of the Treasury, in contradistinction to this new order of exclusive Republicans, is the result of these denunciations, I am willing to encounter their consequences.

Mr. President, if I and those of the Republican party who act with me on the present occasion have apostatized from our former political principles, I can say with truth, so far as the charge respects myself, that the motive by which I am actuated must not only be disinterested but very different from that which generally operates on the human mind. In the most gloomy hour of Republican adversity, during the severest denunciations and persecutions which it experienced; at an hour when our political hemisphere was pregnant with a tempest which threatened destruction to all its votaries; when I represented the only Federal district in the State of Virginia, and my constituents were constantly sending on loyal addresses, in the most pointed manner animadverting on the party with whom I was associated; under all these adverse circumstances, I was not inferior to any one in fidelity and zeal for the Republican cause. But, at this period of

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Republican triumph, when to be associated with that party, is the best passport to all the honors and offices of our country, when I am elected to a seat in this very elevated and honorable body by the vote of a Republican Legislature of one of the most uniform and unanimously Republican States in the Union; in such a crisis, and in such a state of things, I have abandoned the Republican party! If the charge be just, I can only repeat, that I must be actuated by motives very different from those which generally operate on the human bosom. No consideration of pecuniary aggrandizement could have had any operation on me in relation to the subject under consideration; any other than a wish to advance the general happiness of society, for I never had a bank share in any bank whatever, nor have I ever had any negotiation with, or requested or obtained a loan of one penny from the Bank of the United States or any of its branches. I must here remark, if this abandonment and tergiversation of political principles is justly attributable to me. I am not conscious of the motive which produced it. Whether I shall be considered faithful to Republican principles, my country must determine; and to this tribunal I cheerfully appeal. But whether, in the vote I am about to give, I shall evince uniformity of political principles, is not a question that I will submit as a matter of doubt for the decision of any one. It is a matter of fact, susceptible of immediate and conclusive demonstration. The first time I was a candidate for a seat in the House of Representatives, a gentleman who was a competitor with me for that station, published a lengthy address to the freeholders of the district, which we each wished to represent, which was, in some measure, a profession of political faith, and seemed to call on me to make public a similar exposition of my political sentiments. The question concerning the Bank of the United States was then a topic more generally adverted to, than it has been for some years past; it was, of course, dilated on in the address of my competitor, which imposed an obligation on me to express my sentiments on this subject, in the answer which I published to this address. I have no copy of my answer in my possession, nor have I seen it for several years; but I have no doubt but some copies of it are to be found, and if they can be found, it will be seen that I therein waive all considerations respecting the original constitutionality of the bank, and, after making some remarks respecting it, which I do not now recollect, conclude with observing, that however inexpedient at first, it cannot now be touched without impairing public credit and shaking our Constitution to its base. These, I think, are the very words used in my answer. Thus, sir, recorded evidence may be produced, that, in the very first act of my political life, (as relates to the General Government,) on the first promulgation of my political sentiments, when I was a very young man, I avowed the sentiments I now profess, and in conformity with which I now act. If I was a Republican at the time I published this answer,

if the sentiments it contained consigned me in the public estimation to the Republican party, if I acted and shall act in my political career in conformity to these sentiments, I have some latent suspicions that I should have some pretensions to the character of a Republican, if it were not discovered that a new order of patriots has lately arisen, which has exclusively appropriated to itself every Republican attribute, and will not permit any of its benign influence to animate the bosoms of those who have preceded them in the theatre of public life, though it is exclusively owing to the exertions of the latter, that its genial and hallowed flame has not been entirely extinguished. From the exposition I have just made, whatever may be the political sect with which I and many others of my more illustrious political associates are arrayed, I hope it will at least be admitted, that I have acted with consistency and in conformity with my earliest professions. I am conscious of possessing but little political merit, and my anxiety to have credit for what little I do possess, is augmented from my consciousness of the scantiness of the general stock. When we possess but little, that little is our all, and its value is proportionally enhanced from this consideration. Consistency of political opinion, and steady adherence to those tenets with which I had commenced my political life, was one of those humble recommendations for public confidence to which I flattered myself I could make some just pretensions; nor will the review I have just taken of the commencement and progress of my political life, diminish these pretensions. Whether this new order of exclusive Republicans, who have made their appearance upon the theatre of public life more recently than it was my fortune to do, shall succeed in excluding from the Republican ranks the late President of the United States and the majority of Congress, as also the Secretary of the Treasury and all the Republican members of Congress who voted for the bill under consideration; I say, Mr. President, whether this is effected or not, in either case the charge of apostacy or dereliction of political principles, cannot apply to me, because I now act in strict conformity with the profession of political faith which I made at the commencement of my public life (in relation to the Government of the United States.) With whatever political sect I may be associated in consequence of the affirmative vote I shall give to the bill now deliberated on, from the considerations already enumerated, I shall at least stand absolved from all imputations of inconsistency, insincerity, or apostacy. My candor cannot be impeached; I cannot be accused with advocating now a doctrine I once reprobated, nor of vibrating in my political opinions with a vibrating state of things. Nor has any one the right to question the sincerity of the solemn declaration I now make, that I every day cherish with a fonder affection, my attachment to those just and leading political principles to which I was attached, and which I professed at the commencement of my political life, because every passing day's experience serves



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more firmly to convince me of their accuracy and superlative excellence, and that the preservation of those principles, in their utmost purity, is best calculated to preserve the liberty and promote the general welfare of the nation.

WEDNESDAY, February 20.

The following Message was received from the  
PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I lay before Congress a return of the militia of the United States, as received by the Department of War, from the several States and Territories.

JAMES MADISON.

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*Ordered,* That the Message and documents lie on the table.

Mr. CUTTS, from the committee, reported the bill making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes, correctly engrossed; and the bill was read the third time as amended.

*Resolved,* That this bill pass, and that the title thereof be "An act making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes."

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act establishing navy hospitals," reported it without amendment.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act for the relief of Peter Audrain," reported it without amendment.

The bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory;" was read the third time, and passed.

The bill, entitled "An act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory," was read the third time, and passed.

The bill entitled, "An act authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed," was read the third time; and, on motion of Mr. CRAWFORD, postponed to the first Monday in December next.

The PRESIDENT communicated a resolution of the Legislature of the State of Kentucky, approving the amendment to the Constitution respecting titles of nobility; which was read, and, on motion of Mr. BRADLEY, ordered to be transmitted to the Secretary for the Department of State.

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The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

Mr. CRAWFORD said he regretted extremely, that at so late an hour, he was constrained to throw himself upon the indulgence of the Senate, especially as the subject was so much exhausted by the able and animated discussions which had for so many days attracted their attention. Before I enter upon the few remarks, which I feel it my duty to make in reply to the numerous comments which have been made upon the observations which I had the honor to submit to the consideration of the Senate, at the commencement of this discussion, permit me, sir, to acknowledge the liberality and indulgence with which those observations have been generally treated. In the course of the few observations to which I intend to confine myself, it shall be my endeavor to exercise that indulgence towards others which has been extended to me. The gentleman from Kentucky (Mr. CLAY) complains of the committee, because they have listened to the representations of two delegations from the city of Philadelphia who presented memorials to the Senate, who referred them to the committee; and because the committee have, in his opinion, given an adventitious importance to their representations, by the minuteness and by the pomp and parade with which they have been detailed to the Senate. It will be recollected that the committee did not seek the post which has been assigned them by the Senate, nor did they desert it after it was assigned to them. The object of referring petitions to committees is to collect that information which the Senate ought to have before it acts, and which in its collective capacity it cannot obtain. It has always been the practice of committees to permit the petitioners to be present at their meetings, to make such explanations, and to give such information touching the subject of their petition, as they think connected with it. It is the duty of committees to detail to the Senate the information which they collect, to enable the members to take a full view of the subject upon which they are called upon to act. The committee in the present case has done all this, and it has done nothing more. Had it pursued a different course it would have justly subjected itself to the animadversions of the Senate. To the information collected by the committee from these delegations, and laid before the Senate, my friend from Maryland (Mr. SMITH) has opposed a statement of facts, and his opinion founded upon those facts. As the situation and talents of that gentleman entitle his statements and opinions to great weight; as it is more than probable that the votes of several members will ultimately rest upon the weight of his authority, my honorable friend from Maryland (Mr. SMITH) will pardon me if I should examine his observations rather according to the rules of evidence, than those of logic. In making this declaration I wish to be explicitly understood, as excluding every idea of charging that gentleman with having made statements which he did not believe, or with having given opinions he did not entertain. I have no doubt but that he sincerely believes in the cor-

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rectness of his statements, and in the accuracy of his opinions; but if, in the course of my observations, I shall prove incontestably that he is mistaken in some of his statements and opinions, it will teach the Senate the necessity of weighing the remainder of them with great circumspection. If I shall be able to show that he is mistaken in a case, the evidence of which is matter of record, that circumstance alone will induce the Senate to reject all idea of receiving his statements and opinions with implicit confidence. But, sir, before I proceed further in my observations, permit me to notice an expression which fell from the gentleman from Tennessee on my right, (Mr. WHITESIDE.) I understood that gentleman to say, that those Republicans who thought the law incorporating the bank was Constitutional, had been guilty of apostasy. I hope I misunderstood the gentleman; if I am mistaken it will afford me great pleasure to be corrected, because the declaration made a very strong impression upon my mind, and excited the most unpleasant sensations. [Mr. W. explained. He said an impression had been made upon his mind that the bank charter was unconstitutional, but that he had never examined the subject minutely until it had become his duty to do it. That that examination had convinced him that it was unconstitutional, and that those Republicans who now supported the renewal must have apostatized.] Then, sir, I say that this is language which no gentleman ought to use towards any member of this honorable body; and, sir, it is language which no gentleman shall without the walls of the Senate use to me with impunity. [Mr. W. explained by saying that he did not say that gentlemen had apostatized, but that he had only said in his opinion they had apostatized.] I wish the gentleman had been able to make a satisfactory explanation of his unwarrantable declaration. What right has he to make his opinion of the Constitution the test of other men's republicanism? By what authority does he erect his opinion as the standard of republican orthodoxy? as the standard by which the republicanism of other gentlemen is to be tried? The gentleman has mistaken his standard in the Republican party. I disclaim all authority in a case of this kind, and more especially the authority of the gentleman from Tennessee.

Mr. President, the honorable gentleman from Maryland has declared, that the act incorporating the Bank of the United States was in its origin a party question. [Mr. SMITH explained: He did not say it was a party question, but that it had given rise to party.] If I have mistaken what fell from the honorable gentleman from Maryland, I am not in what fell from the gentleman from Tennessee on my right, (Mr. WHITESIDE.) Sir, the assertion is not only without proof, but it is contradicted by matter of record. A reference to the yeas and nays upon the bill in both Houses of Congress will prove that many of our most distinguished Republicans voted for our bill, and some of the most respectable Federal members voted against it. In the observa-

tions which I made when I had the honor of addressing the Senate at the opening of this discussion, I attempted to show that the idea of party, as now known, did not then exist in the United States. That the parties then known were those who were the friends of the Federal Constitution, and those who were opposed to it. Nothing which I have heard advanced upon this subject in reply to my observations has made the slightest impression upon my mind against the correctness of the opinion which I then advanced. I understood the gentleman from Maryland to say, that the Congress which passed the bill to incorporate the bank was capriciously apportioned, and consisted of sixty-five members, and that of that number only thirty-nine voted for it. That if the members had been apportioned as the Constitution directs, upon the principles of population, in his opinion the bill never would have been passed. Sir, let us examine the correctness of this opinion: Every member present but one, from the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, voted for the bill, together with two from the State of Maryland, two from the State of North Carolina, and one from the State of South Carolina. The eight States who voted unanimously for the bank, one only excepted, upon the apportionment under the first enumeration, give a net gain of twenty members, while the other few States, most of whom voted against the bank, give a net gain of sixteen members. Thus, sir, if we may judge of the conduct of members in a geographical point of view, there can be no doubt that the friends of the bank would have been considerably increased by a correct apportionment. The vote in the House of Representatives on the final passage of the bill was thirty-nine to twenty. In the Senate the yeas and nays were taken on two questions during its pendency there. Upon the first the yeas were sixteen, the nays six. Upon the motion to strike out the twelfth section, which restrains the right of Congress to create any other bank during the existence of that about to be created, the yeas were five, and the nays eighteen. The opinion then is wholly incorrect, and yet the evidence upon which this opinion ought to have been formed was matter of record. Sir, the gentleman from Maryland has said that this bank has been mischievous in its consequences, and that wherever it has established a branch it has immediately produced a necessity for creating other banks. I would ask what has created the necessity of creating banks in New Hampshire, Vermont, Rhode Island, Connecticut, New Jersey, Delaware, North Carolina, and the Western States? This bank has never established a branch bank in any one of these States, and yet they have, without, I believe, a single exception, established banks; while the State of Georgia, where a branch bank has been long established, has not until within a few months past established a single bank. What cause is it that has influenced the Legislatures of Maryland, Penn-

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sylvania, and several other States, to create so many banks within a few months past? Is it owing to the mischievous effects of the Bank of the United States? Sir, the facts I have stated show conclusively that the cause assigned by my honorable friend from Maryland cannot be the one which has produced this multiplication of banks. Some other cause must be sought for, and in my opinion a more rational one is ready at hand. The effects of the bank and of its branches wherever established, upon the prosperity of the people, and of the commerce of the place, removed the long-rooted objections which existed against banks, and hence their great increase in all the States.

The gentleman from Maryland has stated several cases in which the State banks, and the banks of this Territory have accommodated the Government, where the United States had refused. The cases stated prove nothing, and ought to have no influence with this Government in establishing a permanent system of revenue. If the State and Territorial banks have upon several occasions received the bills of other State banks to accommodate the Government, it was because it suited their convenience at the time. It was a mere temporary transaction, and forms an exception to the general rule. The charter of no bank in the United States compels them to take the paper of other banks, and whether they do receive them or not will depend upon contingent circumstances, or upon whim and caprice. No reliance, therefore, ought to be placed upon the duration of any regulation which is not enforced by their charters. The gentleman from Maryland thinks that the United States will have the same influence over the State banks that it has had, and will have over that of the United States. If he is correct as to the extent of that influence, his conclusion may be correctly drawn. But, sir, is it true that the National Government has no other influence over this bank than that which can be produced by withdrawing of its deposits? If it is so, then it must be admitted that the United States will have the same influence over the State banks that they will have over one of their own creation, because they can as easily withdraw their deposits from the one as the other. But, sir, the United States have an influence over the Bank of the United States, which is wholly independent of, and unconnected with, the right of withdrawing their deposits from its vaults. The bank is dependent on them for its existence. By renewing the charter for short periods of time you create a state of dependency upon the Government, which will at all times make the bank completely subservient to all the legitimate objects for which it was created. How, sir, is it with the State banks? Upon whom are they dependent for legal existence and for length of days? Upon the State governments. Suppose the authority from which they derive their existence should place itself in opposition to the Government of the United States; and suppose that this state of hostility should happen a year

or two before the time at which their charters were to expire, and the State Legislature should direct them to hold the deposits of public moneys against the demand of the National Government, what course would they pursue under such circumstances? Sir, the case which I have stated is not a mere possible case. The history of several of the large influential States proves that this state of hostility, which I have supposed, is not an imaginary one. Make yourselves dependent upon the State banks for the collection and transmission of your revenue, and that opposition, which has but seldom happened, will become more frequent. Their disposition to control the operations of the National Government will increase with every increase of the means of annoyance, which the folly and improvidence of Congress may throw into their hands. For whose benefit, sir, is the Government to strip itself of this right, so essential for the due administration of its finances? Is it for the benefit of the great mass of the American people? No; not one in an hundred of them have any interest in the State banks. They feel no interest in the question; their true interest is more effectually subverted by the operations of the Bank of the United States than it can possibly be by the State banks. This bank affords them a portable currency which is of equal value in every part of the United States, while the credit and currency of the State banks is local.

Mr. President, the honorable gentleman from Maryland (Mr. SMITH) says that the Bank of the United States does not facilitate the collection of the revenue. If I understood the gentleman from Massachusetts (Mr. LLOYD) and the gentleman from Maryland correctly, human imagination cannot devise a system so peculiarly calculated to insure the speedy collection of your revenue, as that which is furnished by banks. Sir, I know nothing of the details of the banking system—I never was inside of a bank except two or three times in the branch bank which has been established in this city; but I understood the gentleman from Massachusetts to say, that when a revenue bond even of fifty dollars was deposited in the bank for collection, if it was not discharged when due, that the obligor was refused all further accommodation in that bank, and that if his accommodations amounted to \$100,000, he was called upon to discharge his notes as they became due, the right to renew them being forfeited by this act of default. I understood the gentleman from Maryland to say, that whenever any person was known to be in default at any bank, that all the banks of the place immediately refused him credit, and demanded the payment of his notes as they became due, by excluding him from the right of renewing them. [Both gentlemen assented to the correctness of the statement.] I have then understood both gentlemen correctly. This simple statement proves, beyond the possibility of doubt, that the bank is the most powerful engine in the collection of your revenue, which human ingenuity can devise. Credit is the true basis of commerce. By placing your

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revenue bonds in the bank, the want of punctuality in a single case towards the Government shuts the door of every bank to which the defaulter had before had access, and also of every other bank of the city in which his commercial transactions have been carried on. And yet we are seriously told that the operations of the bank have no influence upon the prompt and secure collection of the national revenue.

It is impossible to resist the conviction that the prompt and secure collection of our revenue is principally owing to the influence of the bank. But, sir, the bank has another direct influence upon the collection of your revenue. By the rules established in the bank at Philadelphia, every person whose bond to the Government is deposited there, has a right, upon getting an additional endorser, to claim a discount for half of the amount of his bond, and the part so discounted is immediately carried to the credit of the United States, and the bank takes upon itself the risk of the ultimate collection. In this way, sir, one-half of the bond is collected at the sole risk of the bank, without any possibility of loss on the part of Government. And yet, sir, it is contended that the bank has nothing to do with the collection of the public revenue. The gentleman from Maryland says that the scarcity of money, and the alarm and dismay which the delegation of mechanics had represented as existing in Philadelphia, could not be the effect of the contraction of discounts by the Bank of the United States, because that bank, as well as the State banks, are going on with their ordinary discounts. This is true, but the gentleman from Maryland has forgotten that this delegation stated that the bank, upon the rejection of their memorial by the House of Representatives, had contracted their discounts, and that a correspondent contraction had taken place in the discounts of the State banks which had produced the pressure; and that that pressure had spread alarm and dismay through the city. That before they left the city, the directors of the Bank of the United States had come to an understanding with the directors of the State banks, all of whom had determined to resume and continue their ordinary discounts until the last hour. Notwithstanding the banks had resumed their ordinary discounts, the panic which had been produced did not cease, and the scarcity of money, and the distrust which had taken place, still continued to exist in Philadelphia.

The gentleman from Maryland admits expressly that the transmission of your public money for the payment of the Army and Navy must be effected through the agency of banks, but contends that that object can be effected as well by the State banks as by a Bank of the United States. My friend from Kentucky (Mr. Pore) said, that the great characteristic difference between the present Government and that which existed under the old articles of confederation, is, that the present Government has within itself the means of executing its own measures, without relying upon the State governments; whereas the old

Congress had to rely upon the States for the execution of the measures which it had previously devised and adopted.

This opinion is substantially correct; for the Constitutional dependence of the present Government of the United States upon those of the States is confined to its organization, and not to the execution of its Constitutional powers after it is organized. The gentleman from Tennessee (Mr. WHITESIDE) has said, that we argue this question as though Congress was wholly independent of the State governments. When, sir, I had the honor of submitting my reasons to the Senate upon a former day, I expressly stated the cases in which the National Government was dependent upon those of the States, and proved, by referring to the Constitution itself, that in every case of that kind the Constitution imposed upon the State the highest obligation to perform the acts, for which the Government of the United States was dependent upon them. The Constitution having defined the cases in which this Government shall be dependent upon the State government, I did not hesitate to declare it to be unwise and improvident to increase that dependence by legislative acts, when we were unable to impose any obligation on the States to perform the act. The same gentleman has said that the objection to employ the State banks, was the result of a distrust in the State governments rather than in the State banks; and that this distrust was unreasonable, because the State governments were composed of the same description of men who composed the National Government. If this be called argument, and is entitled to any weight, it is a two-edged sword, which cuts both ways. It equally proves the unreasonableness of the distrust which is felt against the Government of the United States in relation to the exercise of the right to incorporate a bank. But, sir, to all this the most satisfactory answer is, that I will trust no man to do for me what I can do so much better for myself. Why trust any man when there is no necessity or reason for trusting him?

The gentleman from Maryland, in speaking of the means which have been resorted to, to procure the renewal of the charter, says that we have not procured memorials to be presented to Congress praying that the charter might not be renewed—we have not procured pamphlets to be written, published, and laid upon the tables of members, proving the unconstitutionality and inutility of the bank—we have not imposed upon the credulity of honest mechanics and manufacturers, and by that means procured delegations to be sent to pray for the rejection of the bank memorial. Surely, sir, the gentleman did not by these declarations mean to insinuate that any one of those gentlemen who support the bill upon your table, have had any agency in procuring any application to be made in favor of the bank. I know that gentleman's respect for himself; his respect for the Senate; his respect for the individual members of this body, as well as his respect for the general rules of propriety, exclude

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the possibility of his making such an insinuation. [Mr. SMITH explained, by saying, I exclude every idea of such an insinuation.] Sir, I will tell the honorable gentleman from Maryland, what has been done by those who are opposed to the renewal of the charter. I do not mean the members of the Senate who are opposed to it, but those who have attempted to inflame public opinion upon this question. Letters, sir, have been written from this place to induce the State Legislatures to instruct their members to oppose the renewal of the charter of the bank. I will ask the honorable gentleman from Maryland whether he does not know that letters have been written for that purpose?

The gentleman from Maryland has said, and I am extremely sorry that he has, that the Bank of the United States had their agents in this city for two sessions, intriguing with members of Congress to obtain a renewal of their charter. I can assure that gentleman that I have had as little to do with the agents of the bank as he has had. If, sir, I was disposed to retort upon those who are opposed to the renewal of the charter, I would ask, if they have not seen published in the democratic papers of Pennsylvania, Maryland, and Virginia, extracts of letters said to be written in the City of Washington, charging the members of Congress who are in favor of it with being bribed and corrupted, and with being disposed to sell the sovereignty of the nation to British capitalists? Have they not seen, in the same papers, conversations detailed with great minuteness, which it is pretended have passed between members of Congress, calculated to excite public odium and indignation against the friends of the bill now under consideration? Sir, I will not for a moment indulge an idea that these letters have been written or these conversations detailed by any member of this body. The idea that such has been the fact is too humiliating, too degrading, not only to this honorable body, but to human nature itself; to be entertained but for one moment. And yet, sir, the author of a charge, as base as it is false, against my honorable friend from Kentucky (Mr. POPE) has, day after day, occupied a seat in a gallery of the Senate, to which no person has a right of access, but by an introduction of one of the members of this body. Sir, the highway robber, when compared with the infamous fabricator of this base attempt to assassinate the reputation of this honorable member, becomes a virtuous and estimable character. Such, sir, has been the warfare which has been waged against the renewal of the charter. Denunciations and charges of political apostacy are the measures by which we have been assailed from without and from within. Sir, I have shown that the bank question was no party question in its origin—that it was a question upon which an honest difference of opinion always has existed, and does now exist. And, shall I be charged with deserting the standard of the people, while I am treading in the footsteps of the great Father of his Country? Shall I tremble at the charge of

apostacy which has been denounced against me by the gentleman from Tennessee (Mr. WHITESIDE) while I am pursuing the course which has been approved by a Gerry, a Langdon, and a Washington; men whom the wise and virtuous have delighted to honor? No! while treading in the footsteps of these well-tried patriots and enlightened statesmen, I will advance, with a firm, undeviating step, unappalled by the howling of party rage, more terrific than the yell of the aboriginal savage.

The gentlemen from Maryland (Mr. SMITH) has said that he has understood that a proposition was made in the Federal Convention to vest Congress with power to create corporations generally and without limitation. Had I been a member of that Convention, I should most certainly have voted against the proposition, because it would have been unreasonable. Why should such a power have been delegated? Not certainly as necessary to execute the delegated powers, because they are very limited—a general power to create corporations would have enabled Congress to have created them *ad libitum*, where there was no possible relation between them and any one of the delegated powers. The vote upon the bill incorporating the bank proves that if such a proposition had been submitted, it must have been rejected, under a conviction that the power to create corporations is incident to such of the general powers as might require an act of incorporation completely to execute them, and fairly vested by the Constitution in Congress; because ten of the members of that Convention were in Congress, and voted for that bill—because General WASHINGTON signed that bill, because the only member of that Convention now in Congress voted for the bill, and is now in favor of renewing the charter; and because there were but eight members of that Convention in Congress who voted against it.

Mr. President, I will now proceed to examine the objections which have been offered to the construction which I have given to several clauses of the Constitution. In the observations which I made upon this part of the question when I was up before, I endeavored to prove that every construction that had been given to this instrument, upon the idea of its being perfect, was likely to be erroneous. The gentleman from Virginia (Mr. GILES) and the gentleman from Tennessee (Mr. WHITESIDE) still view it as the model of perfection. They are certainly at liberty still to entertain that opinion. Every man has a right to erect his idol in this land of liberty, and to fall down and worship it, according to the dictates of his own conscience. I endeavored also to prove, that if we applied the same rule of construction to that clause of the Constitution from which we endeavor to derive the right to create a bank, which has been applied to that from which the power to erect a light-house has been derived, the Constitutional difficulty at once disappears. Until my friend from Virginia (Mr. GILES) and my friend from Tennessee (Mr. ANDERSON) had otherwise declared, I had always understood the

right to erect light-houses had been exercised as incidental to the power to regulate commerce. It seems, however, that I am mistaken, and that this right is incidental to that clause which gives Congress the right to exercise exclusive legislation in certain places. The clause reads in the following words:

"To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," &c.

Now, says my friend from Tennessee, this clause gives the right to erect dockyards; and as dockyards must be on the seacoast, therefore, Congress has the right to erect light-houses, because they must also be on the seacoast. This argument is extremely logical, nay, syllogistical, in form, but it is extremely illogical in substance. The conclusion drawn from the premises, is as necessary, as though I were to say, that because two and two makes four, therefore five and five makes twelve. The conclusion in the latter case is as necessary as in the former. But my honorable friend from Virginia (Mr. GILES) derives it from the authority given in this clause, to erect other needful buildings. But the question recurs, needful for what? Why certainly for the purpose before specified. What are they? Forts, magazines, arsenals, and dockyards. If this clause gives any authority to erect forts, magazines, arsenals, and dockyards, the other needful buildings spoken of must be needful for these specified purposes. I should suppose that no man, who spends only a few days in this city, can be at a loss to determine what is comprehended under the term "other needful buildings." Let him go to the dockyard, nicknamed a navy yard in this city, and he will there find a little town of "other needful buildings" in the words of the Constitution. But, sir, I deny that this clause of the Constitution expressly gives any right, but that of exercising exclusive legislation in the places to be accepted or purchased for the purpose therein specified. The right to erect forts, magazines, and arsenals, is fairly incidental to the right of declaring war, and of raising armies; and the right to erect dockyards is fairly incidental to the right of providing and maintaining a navy. But if for the sake of argument I should admit that the right to erect forts, &c. is given in this clause, how can it be proved that the right to erect a light-house is also given? Forts, magazines, arsenals, and dockyards, are enumerated, and as the Constitution says that all powers not expressly given are retained, if the right to erect forts, magazines &c. is given in this clause, most clearly the right to erect light-houses is retained by the States, because it is not to be found in the enumeration contained in the clause. When I had the honor of addressing the Senate before, I questioned the authority of the State governments

to create banks; I then stated, and I again explicitly state, that it is with reluctance that I have felt it my duty to make any inquiry into the Constitutional right of the State governments to incorporate banks. The State Legislatures ought to have recollected the Spanish proverb, which says, that those who live in glass houses ought not to throw stones. Before they undertook to question the Constitutional authority of Congress, they ought to have thoroughly examined the foundation upon which their own right rested. The honorable gentleman from Virginia (Mr. GILES) says that the construction which I have given to that part of the Constitution which prohibits the States from emitting bills of credit, would apply equally to promissory notes given by one individual to another under the laws of a State, as to a bank bill. Permit me to inquire of that gentleman whether he ever saw a law authorizing one man to give another his promissory note? He may search the pandects of Justinian; he may turn over the leaves of the musty volumes written upon the common law, from the days of Bracton and Fleta down to the present day, and his search will be in vain. For the right to make contracts, the right to give promissory notes, is antecedent to, and independent of all municipal law. The gentleman will find laws and decisions in abundance, regulating the effect of endorsements and other collateral circumstances, and prescribing the manner of enforcing the payment of promissory notes, but he will never find a law giving the right to execute the promissory note. But it is said that the bills of credit, which the States are prohibited from emitting, must be bills of credit emitted on the credit of the State. If this distinction should be well founded, many of the State banks are still subject to the charge of unconstitutionality, because in many of them the States are directly interested, and wherever that is the case; their bank bills are bills of credit emitted on the credit of the State. But the correctness of this distinction may well be denied, because the restriction is as general as it could possibly be made. But it is said that this restriction applies only to bills of credit which are made a legal tender in the payment of debts; that bills of credit, designated in the Constitution, are *ex vi termini* a legal tender. For the correctness of this exposition, an appeal is made to the restriction which immediately follows it, which restrains the right of the States to make anything but gold and silver a legal tender in the payment of debts. It appears to me that the latter restriction excludes most emphatically the construction contended for. If the States are prohibited from emitting bills of credit, it would have been, to say the least of it, wholly nugatory to say they should not make them a legal tender. If the bills are not emitted, it is impossible that they can be made a legal tender. To suppose that the restriction upon the right of the States to make anything but gold and silver a legal tender has any connexion with or influence upon the restriction to emit bills of credit, is as absurd, as to suppose that the Decalogue, after having declared, that

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"thou shalt do no murder," should have added, but, if you will murder, you shall not rob and strike the dead. The construction of the restraint upon the right to make anything but gold or silver a tender, is that they shall not make specific articles, as tobacco or cotton, a tender, as was the case in some of the States.

But it is said that the history of the States will show that the bills of credit specified in the Constitution were those only which were a legal tender in the payment of debts. Let us examine this point, according to the rule of construction applied to another clause in the Constitution by a large majority of both Houses of Congress during the present session. Another clause in the Constitution gives Congress the power to admit new States into the Union under two limitations: 1st. That no new State shall be formed within the limits of any State without the consent of the State; and, 2d. That no new State should be formed by the junction of two or more States without the consent of such States, and also of Congress. These limitations prove that the formation of new States, within the limits of the United States, was in view of the Convention at the time that this clause was adopted; and the subsequent clause, which gives Congress the power to make rules for the government of its Territories, proves that these Territories were at that moment under consideration. In addition to these reasons for believing that the framers of the Constitution had no idea of forming new States, beyond the limits of the United States, those who were opposed to the admission of Orleans as a State contended that the history of the United States proves that the power to erect new States and admit them into the Union was intended to be confined to new States within the limits of the United States, at the formation of the Constitution, and that a different construction would disparage the rights of the original States, and, of course, be a violation of the Constitution. What reply did the majority of Congress give to this train of reasoning? They said that the right to admit new States cannot be subject to any other limitations or restrictions than those which are contained in the clause which gives the right, and as there is no restriction upon the right to erect new States without the then limits of the United States, Congress have an unlimited right to erect and admit them into the Union. Let us apply the same rule of construction to the restriction of the right of the States to emit bills of credit. The restriction is a general one; it has no exceptions; and every attempt to make exceptions ought to be repelled by the answer which was given to those who opposed the right of Congress to admit the Territory of Orleans into the Union as a State. The construction I have contended for gains additional weight when we consider the restriction which immediately precedes that under consideration. No State shall coin money, emit bills of credit, &c. Bills of credit are but the representatives of money. The Constitution gives Congress the right to coin money, and to regulate

its value. It takes from the States the right to coin money and to emit bills of credit. Why give to Congress the right to coin money and regulate its value? Because the interest of the nation requires that the current coin of the nation should be uniform both as to its species and value. If this is the true reason why the right of coining money and fixing its value was given to Congress, does not the right to issue that which is to be the representative of this coin; which, in fact, is to usurp its place; which is to be the real currency of the nation, necessarily belong to Congress? Does not the right to create a bank, which shall issue this representative of money, come within the same reason? I think it does.

My friend from Kentucky (Mr. CLAY) contends that the right to create a bank will prove destructive to the rights of the States, because if Congress can incorporate a bank, it may, under some pretext or other, create other corporations and authorize them to hold real and personal estate, which shall be exempt from the right of taxation by the States. That if this is admitted, and he believes it generally is admitted, that the States cannot tax bank stock, in this way the States may be deprived of the power of taxation. Sir, I am one of those who do not admit the fact. [Mr. CLAY said that he did not admit it neither, though he had understood that the bank held that doctrine.] I am extremely glad that we think alike, at least upon this collateral point. The right of the States to impose taxes is unlimited by the Constitution of the United States; they, therefore, can tax every species of property which is within their legislative jurisdiction. The unlimited power of the States to impose taxes is, in all probability, the true cause of giving to Congress the power of exclusive legislation over all places which should be selected for the erection of forts, magazines, arsenals, and dock-yards, because public property to a great amount would necessarily be collected in these places; and but for the vesting the right of legislation in Congress to the exclusion of the States, all this property would have been subject to taxation, which would have produced great embarrassment. It has been said, not indeed upon this floor, but by men for whose opinions I entertain a very high respect, that the right of the States to tax bank stock is inconsistent with the right of Congress to create a bank. That the right of taxation destroys the right to create, because the States, by immoderate taxation, could drive the bank out of their limits. All arguments drawn from the abuse of a right ought to be received with great caution; but, if it is entitled to any weight in this case, it equally proves the unconstitutionality of the State banks, because the right of Congress to lay and collect taxes is subject to but two restrictions: that they shall be uniform, and that direct taxes shall be according to the representation. Suppose Congress was under a necessity of raising \$10,000,000 by direct tax, the whole, or nearly the whole, of this sum might be imposed upon bank stock, and by that means the State

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banks totally destroyed. The advocates of this doctrine are also advocates for State banks. If the right of taxation by the States proves the unconstitutionality of the Bank of the United States, the right of Congress to tax equally proves the unconstitutionality of the State banks.

To the fervid imagination of my friend from Kentucky, (Mr. CLAY,) this power to create a bank appears to be more terrific than was the lever of Archimedes to the frightened imagination of the Romans, when they beheld their galleys suddenly lifted up and whirled about in the air, and in a moment plunged into the bosom of the ocean. Are these apprehensions founded in reason, or are they the chimeras of a fervid and perturbed imagination? What limitation does the Constitution contain upon the power to lay and collect taxes, imposts, duties, and excises? None but that they shall be uniform; which is no limitation of the amount which they can lay and collect. What limitation does it contain upon the power to raise and support armies? None other than that appropriations shall not be made for a longer term than two years. What restriction is to be found in it upon the right to provide and maintain a navy? None. What upon the right to declare war and make peace? None, none. Thus the Constitution gives to the Government of the United States unlimited power over your purses—unlimited power to raise armies and provide navies—unlimited power to make war and peace, and you are alarmed; you are terrified at the power to create a bank to aid it in the management of its fiscal operations. Sir, nothing short of my most profound respect for honorable gentlemen, who have frightened themselves with this bugbear, could induce me to treat the subject seriously. Gentlemen have said that they are alarmed at the exercise of this power, and I am bound to believe them. Sir, after giving Congress the right to make war and peace; the right to impose taxes, imposts, duties, and excises, *ad libitum*; the right to raise and support armies without restriction as to number or term of service; the right to provide and maintain a navy without a limitation, I cannot bring myself to tremble at the exercise of a power incidental to only one of these tremendous grants of power. The gentleman from Kentucky (Mr. CLAY) contends that we have attempted to give a degree of weight and force to what we are pleased to call precedents, to which they would not be entitled in those tribunals from which we derive all of our ideas of precedents. I am happy to find that my friend from Virginia (Mr. GILES) agrees with me in opinion upon this subject. Indeed the principal difference between that gentleman and myself is confined to the question of expedience. He thinks that the construction which has been given to the Constitution ought to be considered as conclusive; and that great inconvenience will be produced by unsettling what ought to be considered as finally settled and adjudged.

I agree, also, with the gentleman from Kentucky, that a precedent, to have weight, must be

in point; that the issue upon which the decision is made must be the same as that in which it is adduced as authority. To this I most heartily agree, and will rely upon it, to show that the cases which we urged as precedents are entitled to the greatest weight. In all cases between individuals, they are supposed to understand their own interests and their own cases. The plaintiff is supposed to understand the point upon which the decision of his case must depend. The defendant is supposed to understand the ground of his defence. They make up an issue, either of fact or of law. It is this issue which is to be tried. Any declaration or expression of the judge which is not confined to the issue, is, of course, entitled to no weight. Well, sir, what is the nature of the precedents upon which we rely? 1st. That a republican Congress, in the year 1804, passed a law extending the operations of this unconstitutional institution, as they contend, into territories to which they had no right to extend them by their charter. In the year 1807, they passed a law punishing the forging of their bills. Now, sir, my friend from Tennessee (Mr. ANDERSON) says, that those who passed the bank bill were afraid to venture that far; they were afraid to pass a law to punish the counterfeiting of their bills; but, in the year 1798, in the plenitude of federal domination, they passed a law to punish counterfeiting the bills of the bank. It is certainly true, that the Federal party did pass this bill in that year, but it is equally true, that the Republican party in the plenitude of their power did pass a bill of the same kind in the year eighteen hundred and seven. Well, sir, what is the issue which is tendered in the passage of every bill by the Congress of the United States. First, that the Constitution gives them the right to pass the bill; and, second, that it is expedient. The first, sir, is the most important issue, made up between the National Legislature and the people of the United States, in passing bills by which their rights are to be protected or violated. How, then, are we told that these laws passed *sub silentio*—that the Constitutional right of Congress to pass such a law never was discussed, or even thought of? Sir, suppose the gentleman from Kentucky had constituted me his attorney to do a particular act for him, and I had performed an act under that power which had no connexion with the one which he had authorized me to perform, and when charged with this violation of my trust. I should gravely say, really I never examined the power, but took it for granted that I had the right—that, in fact, I had done it *sub silentio*—what would my friend from Kentucky say to such a reply? But, suppose I had taken an oath to discharge the trust with fidelity and skill, and that I would, in all things touching the trust, confine myself to the power delegated to me. Suppose, I say, under these circumstances, I should violate this trust—should transcend the authority given, and perform an act clearly not delegated? What would the gentleman say to me when I gravely told him, that I had not particularly examined the authority under which I



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acted, that I had done it *sub silentio*? Sir, this way of disposing of these formal voluntary acts of the Government, sanctioning the legality and constitutionality of the bank charter, will not be accepted. Some more happy expedient must be devised. But, sir, we are told, that because the Constitution contains within itself the principles of amendment, that if any doubts existed on this subject, it ought to have been amended. Whenever the States have conceived their rights to have been affected by any construction which has been given to the Constitution, they have shown that they know how to obtain relief. When the Supreme Court of the United States undertook to support the doctrine that an individual could sue a State, they did not hesitate to interfere, and the Constitution was amended. When an embargo was laid, in the year 1807, those States who were most inimical to that measure did not hesitate to offer an amendment to the Constitution. Whenever a construction is given to the Constitution by a legitimate and competent authority, those who are opposed to that construction ought to propose amendments, and not those who are satisfied with it. If the construction given to the Constitution by the creation of the bank was thought by the Republican party to be vicious, then indeed have they been guilty of the grossest act of negligence. It was in their power, and most assuredly it was their duty to have amended the Constitution, either by expressly giving or taking away the power. It was their duty to have settled the question forever. Suppose, sir, you now decide that it is unconstitutional for Congress to incorporate a bank; this will not settle the Constitutional question. It will unsettle and render uncertain what has been settled for twenty years. You say you have not the right to incorporate a bank. Ten years hence other men will come into power, and say they have the right, and will exercise that right for twenty years. The bank will then have been Constitutional for twenty years, unconstitutional for ten years, and Constitutional for twenty more. Are we to go on in this unsettled, miserable, halting manner? God forbid! Sir, I have closed the observations which I thought it my duty to make in reply to the comments which have been made upon the remarks which I had previously submitted to the consideration of this honorable body. If, sir, I preferred my political standing in the State which I have the honor to represent (and, sir, I do not profess to have any out of it) to the public welfare, I should rejoice at the success of the motion which has been made by the honorable gentleman from Tennessee (Mr. ANDERSON.) But, sir, as I believe the public welfare infinitely more important than any fleeting popularity which an individual like myself can expect to enjoy, I shall most sincerely regret the success of that motion. Sir, I have said but little about the degree of distress which will flow from the dissolution of the bank, because I have not that kind of evidence which would enable me to judge of it with any degree of accuracy. The convulsed state of the

European nations; the immense losses which our commerce has sustained by the operation of the decrees and orders of the tyrants of the land and the ocean, imperiously admonish us to beware of making untried and dangerous experiments. By supporting this institution, the tottering credit of the commercial class of your citizens may be upheld, until the storm shall have passed over. By overturning this great moneyed institution at the present crisis, you may draw down to undistinguished ruin thousands of your unfortunate and unoffending fellow-citizens.

[We have to regret the omission of two speeches in the course of the preceding debate, which are wanting to make it perfectly complete—that of Mr. Whiteside, the lowness of whose voice rendered it impossible for the reporter to follow him, and that of Mr. Anderson, the copy of the report of which was mislaid before it was committed to the press—both speeches in opposition to the renewal of the charter.]

The question was then taken on striking out the first section of the bill, (equivalent to a rejection,) when it appeared that there were for the motion 17, against it 17, as follows:

YEAS—Messrs. Anderson, Campbell, Clay, Cutts, Franklin, Gaillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Reed, Robinson, Smith of Maryland, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Bradley, Brent, Champlin, Condit, Crawford, Dana, Gilman, Goodrich, Horsey, Lloyd, Pickering, Pope, Smith of New York, Tait, Taylor, and Turner.

The Senate being equally divided, it became the duty of the VICE PRESIDENT to decide the question by his vote; previously to which he made the following observations:

GENTLEMEN: As the subject on which I am called upon to decide has excited great sensibility, I must solicit the indulgence of the Senate while I briefly state the reasons which influence my judgment.

Permit me to observe, that the question to be decided does not depend simply upon the right of Congress to establish under any modification a bank, but upon their power to establish a National Bank, as contemplated by this bill. In other words, can they create a body politic and corporate, not constituting a part of the Government, nor otherwise responsible to it but by forfeiture of charter, and bestow on its members privileges, immunities, and exemptions not recognised by the laws of the States, nor enjoyed by the citizens generally? It cannot be doubted but that Congress may pass all necessary and proper laws for carrying into execution the powers specifically granted to the Government, or to any department or officer thereof: but, in doing so, the means must be suited and subordinate to the end. The power to create corporations is not expressly granted; it is a high attribute of sovereignty and in its nature not accessorial or derivative by implication, but primary and independent.

I cannot believe that this interpretation of the Constitution will, in any degree, defeat the purposes for which it was formed. On the contrary, it does appear to me, that the opposite exposition has an inevitable tendency to consolidation, and affords just and serious cause of alarm.

In the course of a long life I have found that Gov-

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ernment is not to be strengthened by an assumption of doubtful powers, but by a wise and energetic execution of those which are incontestable; the former never fails to produce suspicion and distrust, while the latter inspires respect and confidence.

If, however, after a fair experiment, the powers vested in the Government shall be found incompetent to the attainment of the objects for which it was instituted, the Constitution happily furnishes the means for remedying the evil by amendment, and I have no doubt that in such event on an appeal to the patriotism and good sense of the community it will be wisely applied.

I will not trespass upon the patience of the Senate any longer than to say, from the best examination I have been able to give the subject, I am constrained by a sense of duty to decide in the affirmative—that is, that the first section of the bill be stricken out.

#### THURSDAY, February 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to erect a light-house on Boon island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina; and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, 1791.

On motion of Mr. LEIB,

*Ordered*, That it be postponed to the first Monday in December next.

The Senate resumed, as in Committee of the Whole, the bill to extend the right of suffrage in the Indiana Territory, and for other purposes; and the bill having been amended, the PRESIDENT reported it to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes; and, on motion, it was agreed that it be made the order of the day for to-morrow.

The Senate resumed, as in Committee of the Whole, the bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio; and the bill having been amended, the PRESIDENT reported it to the House accordingly.

On the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to authorize the

election of sheriffs in the Indiana Territory," together with the amendment reported thereto by the select committee.

On motion, it was agreed that the further consideration thereof be postponed until to-morrow.

The Senate resumed as in Committee of the Whole, the bill, entitled "An act establishing navy hospitals."

*Ordered*, That it pass to the third reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Peter Audrain;" and,

*Ordered*, That it pass to the third reading.

MR. SMITH, of Maryland, gave notice that to-morrow he should ask leave to bring in a bill to repeal the tenth section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" and to repeal the third section of the act, entitled "An act supplementary to the act, entitled 'An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage,' passed 10th May, 1800."

MR. BRADLEY, from the committee to whom was referred the bill, entitled "An act in addition to the act, entitled 'An act concerning Consuls,' and for the further protection of American seamen," reported it amended; and the amendment was considered and agreed to, as in Committee of the whole; and the PRESIDENT reported the bill to the House accordingly.

On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

MR. CUTTS gave notice that to-morrow he should ask leave to bring in a bill to amend the act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana."

#### FRIDAY, February 22.

The bill entitled "An act to erect a light-house on Boon island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts," was read the second time.

MR. LLOYD presented the petition of Moses Brown and others, on the subject; which was read. Whereupon, on motion by Mr. TURNER, the bill and petition was referred to a select committee, to consider and report thereon; and Messrs. LLOYD, TURNER, and CONDRY, were appointed the committee.

MR. HORSEY, from the committee, reported the bill to extend the right of suffrage in the Indiana Territory, and for other purposes, correctly engrossed; and the bill was read the third time as amended, and passed.

MR. HORSEY, from the committee, reported the bill in addition to the act to regulate the laying out and making a road from Cumberland, in the

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State of Maryland, to the State of Ohio, correctly engrossed; and the bill was read the third time as amended, and the blanks filled.

*Resolved*, That this bill pass, and that the title thereof be "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio."

Mr. HORSEY, from the committee, also reported the amendment to the bill, entitled "An act in addition to the act, entitled 'An act concerning Consuls and Vice Consuls,' and for the further protection of American seamen," correctly engrossed; and the bill was read the third time as amended.

*Resolved*, That this bill pass with an amendment.

The bill, entitled "An act establishing navy hospitals," was read the third time, and passed.

The bill, entitled "An act for the relief of Peter Audrain," was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes; and, on motion by Mr. ANDERSON, that the further consideration thereof be postponed to the first Monday in December next, it was determined in the negative—yeas 8, nays 17, as follows:

YEAS—Messrs. Anderson, Bradley, Franklin, German, Gregg, Lambert, Smith of New York, and Turner.

NAYS—Messrs. Campbell, Clay, Condit, Crawford, Cutts, Dana, Gilman, Horsey, Leib, Lloyd, Pope, Reed, Smith of Maryland, Tait, Taylor, Whiteside, and Worthington.

Agreeably to notice, Mr. CUTTS asked and obtained leave to bring in a bill to amend the act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana;" and the bill was read, and passed to the second reading.

Agreeably to notice, Mr. SMITH, of Maryland, asked and obtained leave to bring in a bill to repeal the tenth section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," and to repeal the third section of the act, entitled "An act supplementary to the act, entitled 'An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage,' passed 10th of May, 1800;" and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to authorize the election of sheriffs in the Indiana Territory;" together with the amendment reported thereto by the select committee; and, having agreed to the amendment, the PRESIDENT reported the bill to the House accordingly.

On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The PRESIDENT communicated a report of the

Secretary of the Navy on the practical use of the torpedo, or submarine explosion; and the report and documents therein referred to were read, and ordered to lie on the table.

The VICE PRESIDENT notified the Senate that he should be absent, after this day, for the remainder of the session.

SATURDAY, February 23.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, as the Constitution provides; and the Hon. JOHN POPE was elected.

The credentials of the Hon. JOHN TAYLOR, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March next, were read, and ordered to lie on file.

The bill to repeal the tenth section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," and the third section of the act, entitled "An act supplementary to an act, entitled 'An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage,'" was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. SMITH, of Maryland, FRANKLIN, and ANDERSON, were appointed the committee.

The bill to amend an act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, CAMPBELL, and FRANKLIN, were appointed the committee.

On motion, by Mr. BRENT, that the memorial of Richard Bland Lee, on the subject of the damages he has sustained from the troops of the United States, when stationed at Harper's Ferry, and otherwise, together with the accompanying documents, be referred to the Secretary of War; it was determined in the negative.

The PRESIDENT communicated a report of the Secretary for the Department of Treasury, with a statement of the emoluments of the officers employed in the collection of the customs for the year 1810; which were read, and, ordered to lie on the table.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act for establishing trading-houses with the Indian tribes," reported the bill amended.

Mr. CUTTS, from the committee, reported the amendment to the bill, entitled "An act to authorize the election of sheriffs in the Indiana Territory," correctly engrossed; and the bill was read the third time as amended.

On motion, by Mr. GILES, that it be postponed to the first Monday in December next, it was determined in the negative—yeas 13, nays 14, as follows:

YEAS—Messrs. Bradley, Brent, Clay, Condit, Giles, Goodrich, Lloyd, Pickering, Pope, Smith of New York, Tait, Taylor, and Turner.

**YAYS**—Messrs. Anderson, Campbell, Franklin, Gailard, German, Gregg, Lambert, Leib, Mathewson, Reed, Robinson, Smith of Maryland, Whiteside, and Worthington.

On the question, Shall this bill pass? it was determined in the negative—yeas 13, nays 14, as follows:

**YEAS**—Messrs. Anderson, Campbell, Franklin, Gailard, German, Gregg, Lambert, Leib, Mathewson, Robinson, Smith of Maryland, Whiteside, and Worthington.

**NAYS**—Messrs. Bradley, Brent, Clay, Condit, Giles, Goodrich, Lloyd, Pickering, Pope, Reed, Smith of New York, Tait, Taylor, and Turner.

A message from the House of Representatives informed the Senate that the bill entitled "An act incorporating the Protestant Episcopal Church, in the town of Alexandria, in the District of Columbia," which passed the two Houses of Congress, and was presented to the President of the United States for his approbation and signature, and returned by him, on the 21st instant, to the House of Representatives, in which House it originated, with the following objections:

"Because the bill exceeds the rightful authority to which Governments are limited by the essential distinction between civil and religious functions, and violates, in particular, the article of the Constitution of the United States, which declares that 'Congress shall make no law respecting a religious establishment.' The bill enacts into and establishes by law sundry rules and proceedings relative purely to the organization and polity of the church incorporated, and comprehending even the election and removal of a minister of the same; so that no change could be made therein by the particular society, or by the general Church, of which it is a member, and whose authority it recognises. This particular church, therefore, would so far be a religious establishment by law: a legal force and sanction being given to certain articles in its constitution and administration. Nor can it be considered that the articles thus established are to be taken as the descriptive criteria only of the corporate identity of the society; inasmuch as this identity must depend on other characteristics; as the regulations established are generally unessential and alterable, according to the principles and canons by which churches of that denomination govern themselves; and, as the injunctions and prohibitions contained in the regulations would be enforced by the penal consequences applicable to a violation of them according to the local law.

"Because the bill vests in the said incorporated church an authority to provide for the support of the poor, and the education of poor children of the same; an authority which, being altogether superfluous if the provision is to be the result of pious charity, would be a precedent for giving to religious societies, as such, a legal agency in carrying into effect a public and civil duty."

And that, upon a reconsideration of the bill, two-thirds of the House of Representatives did not agree to pass the same.

Mr. CURTIS, from the committee, reported the bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes, correctly engrossed; and, on motion, by Mr. BRADLEY, it was agreed that it be postponed

to, and made the order of the day for Monday next.

Mr. GILES submitted the resolutions of the Legislature of the State of Virginia, instructing their Senators, and requesting their Delegates, to use their best efforts to obtain from Congress an act authorizing the officers and soldiers of the Virginia line on State establishment, their heirs or assigns, to locate warrants which they may hold for lands granted for military services, on certain waste and unappropriated lands; which were read, and laid on the table.

The Senate resumed, as in Committee of the Whole, the bill for the relief of the Collectors of the ports of Norfolk, Baltimore, and Philadelphia; and, on motion by Mr. REED, the consideration thereof was further postponed until Monday next.

Mr. LEIB submitted the following motion for consideration:

*Resolved*, That the Secretary of the Senate pay, out of the contingent fund, the sum of — dollars to Henry Miller, William Fishburn, and Tobias Simpson, each, for extra services during the present session.

Mr. GREGG, from the committee to whom was referred, on the 4th instant, the memorial of the clergy resident in the city of Philadelphia, made a report. Whereupon the further consideration thereof was postponed to the first Monday in December next.

Mr. BRADLEY, from the committee to whom was referred the bill to amend an act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana, passed on the 31st day of December, 1810," reported it amended; and the amendments were considered as in Committee of the Whole, and agreed to by unanimous consent; and the PRESIDENT reported the bill to the House accordingly.

On the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

#### MONDAY, February 25.

The PRESIDENT communicated a report from the Secretary for the Department of War, containing an account of the expenses of the national armories at Springfield and Harper's Ferry, together with a return of the arms made and repaired at each during the year 1810, made in obedience to the fifth section of an act, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes;" and the report was read, and laid on the table.

The resolution to authorize the Secretary of the Senate to pay, out of the contingent fund of the Senate, to Henry Miller and others — dollars each, was read the second time.

The Senate resumed, as in Committee of the Whole, the bill for the benefit of the seamen of the United States, together with the amendments reported thereto by the select committee; and, after debate, on motion of Mr. LLOYD, the further

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consideration thereof was postponed until the next session of Congress.

Mr. LEIB presented the memorial of the stockholders of the Bank of the United States, praying an extension of their charter, so far as to enable them to settle the accounts of the bank, for reasons therein stated; and the memorial was read, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. CLAY, FRANKLIN, ANDERSON, LEIB, and BAYARD, were appointed the committee.

Mr. GILMAN, from the committee, reported the bill to amend an act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana," correctly engrossed; and the bill was read the third time as amended.

*Resolved*, That this bill pass, and that the title thereof be "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana; and to repeal the act passed for the same purpose, and approved February 16, 1811."

Mr. SMITH, of Maryland, presented the petition of William Lorman and others, citizens of the United States, and residents in the city of Baltimore, stating that they, together with several others, resident merchants in Philadelphia, are severally owners of the ship Fair American and her cargo, arrived a few days since in the port of Baltimore from Calcutta, and that the said cargo is refused entry by the Collector of the Customs, on an alleged violation of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and praying relief, for reasons stated at large in the petition;" which was read, and laid on the table.

The engrossed bill to authorize the payment of certain certificates, credits, and pensions, and for other purposes, was read the third time.

On the question. Shall this bill pass? it was determined in the affirmative—yeas 14, nays 12, as follows:

YEAS—Messrs. Bayard, Clay, Condit, Crawford, Gilman, Goodrich, Lloyd, Pickering, Pope, Reed, Smith of Maryland, Tait, Taylor, and Worthington.

NAYS—Messrs. Anderson, Bradley, Cutts, Franklin, German, Gregg, Lambert, Leib, Mathewson, Smith of New York, Turner, and Whiteside.

So it was resolved that this bill pass, and that the title thereof be "An act to authorize the payment of certain certificates, credits, and pensions, and for other purposes."

On motion, by Mr. SMITH, of Maryland, the bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia, was recommitted to a select committee, further to consider and report thereon; and Messrs. SMITH of Maryland, BRADLEY, and MATHEWSON, were appointed the committee.

TUESDAY, February 26.

The Senate resumed, as in Committee of the Whole the bill, entitled "An act for establishing 11th Con. 3d Sess.—12

trading houses with the Indian tribes," together with the amendments reported thereto by the select committee; and, having agreed to the amendments and further amended the bill, the President reported it to the House accordingly.

On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The Senate resumed the resolution to authorize the Secretary of the Senate to pay, out of the contingent fund of the Senate, to Henry Miller and others, — dollars for extra services during the present session. And on the question, Shall this resolution be engrossed and read a third time? it was determined in the affirmative.

WEDNESDAY, February 27.

Mr. CUTTS, from the committee, reported the amendments to the bill, entitled "An act for establishing trading houses with the Indian tribes," correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. BRADLEY gave notice that to-morrow he should ask leave to bring in a bill to fix the time for the next meeting of Congress.

The resolution submitted on the 23d instant, was read the third time and passed, as follows:

*Resolved*, That the Secretary of the Senate pay, out of the contingent fund, the sum of fifty dollars to Henry Miller, William Fishburn, and Tobias Simpson, each, for extra services during the present session.

Mr. GREGG submitted the following motion:

*Resolved*, That the Secretary of the Senate be directed to deliver to Caleb Boyle the portraits of the late King and Queen of France, which were some time since kept in the Senate Chamber, and which are now in one of the committee rooms, to be kept by him until the Senate direct otherwise; taking, at the time of delivery, his obligation to return them when demanded.

Mr. LLOYD, from the committee to whom was referred the bill, entitled "An act to erect a lighthouse on Boon island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts," reported it with amendments; which were read and considered as in Committee of the Whole, and agreed to; and the President reported the bill to the House accordingly.

On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. HORSEY, from the committee, reported the amendments to the last mentioned bill correctly engrossed, and the bill was read the third time as amended, by unanimous consent, and passed.

Mr. CRAWFORD, from the committee to whom was referred, on the 10th December, so much of the Message of the President of the United States as relates to the occupation of West Florida, reported a bill authorizing the President of the United States to accept the service of a num-

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ber of volunteer companies, not exceeding fifty thousand men; and the bill was read, and passed to the second reading.

THURSDAY, February 28.

The Senate resumed the motion submitted yesterday respecting the portraits of the late King and Queen of France; and, on the question to agree thereto, it was determined in the negative.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 27th December, the memorial of Thomas Corcoran, and others, citizens of Georgetown, in the District of Columbia, made report. Whereupon, the committee was discharged from the further consideration of the subject.

Mr. LEIB, from the committee to whom was referred, on the 14th December, last, the report of the Secretary for the Department of War, on the discipline of the militia of the United States, made report. Whereupon, the committee was discharged from the further consideration of the subject.

*Ordered*, That the Secretary of the Senate return the documents accompanying the report of the Secretary of War of the 14th December last, to the War Office.

Mr. WORTHINGTON presented the memorial of Joseph Gordon, and others, praying an alteration in the laws providing for the sales of the lands of the United States, as mentioned in the memorial; which was read, and referred to Messrs. WORTHINGTON, POPE, and BRADLEY, the committee appointed on the 14th January last.

Mr. BRADLEY asked and obtained leave to bring in a bill altering the time for the next meeting of Congress; and the bill was read, and passed to the second reading.

The bill authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding fifty thousand men, was read the second time, and considered as in Committee of the Whole. And on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' in which they desire the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

I transmit, and recommend to the attention of Congress, a report of the Secretary of State, relative to deficiencies in the returns of the census.

FEBRUARY 28, 1811. JAMES MADISON.

The Message and report were read, and referred to a select committee, to consider and report

thereon by bill or otherwise; and Messrs. WHITESIDE, TAYLOR, and BRENT, were appointed the committee.

FRIDAY, March 1.

The bill, entitled "An act supplementary to the act, entitled 'An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" was read the second time; and on motion by Mr. LLOYD, that it be referred to a select committee, to consider and report thereon, it was determined in the negative.

Mr. GERMAN presented the memorial of Thompson and Edgar, and others, merchants of the city of New York, stating that they are owners and consignees of property to the value of not less than one million and a half of dollars, which has arrived in that port since the 2d of February, and that the collector has refused to permit the said property to be entered at the custom-house, on an alleged violation of the non-intercourse laws; wherefore the memorialists pray relief; and the memorial was read.

Mr. CURTIS, from the committee, reported the bill authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding fifty thousand men, correctly engrossed; and the bill was read the third time.

*Resolved*. That this bill pass, and that the title thereof be "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding fifty thousand men."

The bill altering the time for the next meeting of Congress was read the second time. And on motion, by Mr. BRADLEY, to fill the blanks with the words "third" and "May;" so that the meeting be on the third Monday of May next, it was determined in the negative—yeas 10, nays 17, as follows:

YEAS—Messrs. Bradley, Condit, German, Gregg, Lambert, Leib, Reed, Robinson, Tait, and Whiteside. NAYS—Messrs. Bayard, Campbell, Clay, Franklin, Gaillard, Gilman, Goodrich, Horsey, Lloyd, Mathewson, Pickering, Pope, Smith of Maryland, Smith of New York, Taylor, Turner, and Worthington.

On motion, by Mr. TURNER, the further consideration of the bill was postponed to the first Monday in December next.

The credentials of JENKIN WHITESIDE, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fifth day of this month, were read, and ordered to lie on file.

Mr. CAMPBELL gave notice that to-morrow he should ask leave to bring in a bill for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Minns, and Joseph Wilson, in the Mississippi Territory.

The following motion, by Mr. PICKERING, was submitted for consideration:

*Resolved*, That the injunction of secrecy on the

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papers communicated confidentially to the Senate in the years 1803 and 1805, relative to Louisiana and West Florida, or any part thereof, so far as such papers respect the title or claim of the United States to those Territories, be, and is hereby, taken off.

### COMMERCIAL INTERCOURSE.

The bill, entitled "An act supplementary to the act, entitled 'An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" was resumed as in Committee of the Whole.

On motion, by Mr. LLOYD, to amend the bill, by adding, at the end of the first section, the following words:

"Nor shall any merchandise be liable to forfeiture which may be imported into the United States from any port of Great Britain or her dependencies, on or before the first day of May next ensuing; which merchandise shall be conclusively proved, to the satisfaction of the Secretary of the Treasury, to have been actually purchased by, and exclusively to belong to, a citizen or citizens of the United States, prior to the 2d of February last."

It was determined in the negative—yeas 7, nays 19, as follows:

YEAS—Messrs. Bayard, Bradley, Goodrich, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Campbell, Clay, Condit, Cutts, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, and Worthington.

On motion, by Mr. PICKERING, to strike out of section two, line five, the following words:

"And such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification, in any suit or prosecution which may be instituted under the fourth section of the act to which this act is a supplement."

It was determined in the negative—yeas 7, nays 21, as follows:

YEAS—Messrs. Bayard, Bradley, Goodrich, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Brent, Campbell, Clay, Condit, Cutts, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, and Worthington.

On motion, by Mr. LLOYD, to add to the end of the bill, the following words:

"Nor the proceeds of shipments wholly owned by a citizen or citizens of the United States, which shipments had been made to the British possessions in the West Indies, prior to the second of February last, and the proceeds whereof may be imported into the United States on or before the first of May next ensuing."

It was determined in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. Bayard, Bradley, Goodrich, Horsey, Lloyd, Pickering, Reed, and Turner.

NAYS—Messrs. Campbell, Clay, Condit, Cutts, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Whiteside, and Worthington.

On motion, by Mr. BAYARD, that the further consideration of the bill be postponed until to-

morrow, it was determined in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Bayard, Bradley, German, Goodrich, Horsey, Leib, Lloyd, Pickering, and Reed.

NAYS—Messrs. Brent, Campbell, Clay, Condit, Cutts, Franklin, Gaillard, Gilman, Lambert, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

On the question, Shall this bill be read a third time? it was determined in the affirmative—yeas 20, nays 6, as follows:

YEAS—Messrs. Brent, Campbell, Clay, Condit, Cutts, Franklin, Gaillard, German, Gilman, Lambert, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Bradley, Goodrich, Horsey, Lloyd, and Pickering.

The Senate then adjourned to six o'clock this evening.

### FRIDAY EVENING, 6 o'clock.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing a loan of money for a sum not exceeding five millions of dollars;" a bill, entitled "An act authorizing the issuing of debentures in certain cases;" a bill, entitled "An act for the relief of John Macnamara;" a bill, entitled "An act to annex a part of the State of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewiston, to make Cape St. Vincent, in the district of Sackett's Harbor a port of delivery, and out of the districts of Miami and Mississippi to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes;" a bill, entitled "An act declaring the consent of Congress to an act of the State of Georgia, passed the twelfth of December, one thousand eight hundred and four, 'establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's;" and the bill, entitled "An act to extend the time for completing the third census or enumeration of the inhabitants of the United States;" in which bills they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The bill, entitled "An act authorizing a loan of a sum of money not exceeding five millions of dollars," was read the second time by unanimous consent, and referred to a select committee to consider and report thereon; and Messrs. LLOYD, FRANKLIN, and SMITH of Maryland, were appointed the committee.

The bill, entitled "An act to extend the time for completing the third census or enumeration of the inhabitants of the United States," was read the second time by unanimous consent, and, on motion by Mr. WORTHINGTON, the bill was read the third time by unanimous consent, and passed.

The bill, entitled "An act declaring the consent of Congress to an act of the State of Georgia, passed the 12th of December, one thousand

## SENATE.

## Commercial Intercourse.

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eight hundred and four, establishing the fees of harbor master and health officer of the ports of Savannah and St. Mary's," was read the second time by unanimous consent, and referred to a select committee to consider and report thereon; and Messrs. TAIT, LLOYD, and SMITH of Maryland, were appointed the committee.

The bill, entitled an act to annex a part of the State of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewiston; to make Cape St. Vincent, in the district of Sackett's Harbor, a port of delivery; and out of the districts of Miami and Mississippi to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes," was read the second time by unanimous consent, and referred to a select committee, to consider and report thereon; and Messrs. GERMAN, CONDIT, and BRADLEY, were appointed the committee.

Mr. LLOYD, from the committee to whom was referred the bill, entitled "An act authorizing a loan of money for a sum not exceeding five millions of dollars," reported the bill amended.

The bill, entitled "An act for the relief of John Macnamara," was referred to a select committee to consider and report thereon; and Messrs. TAYLOR, BRADLEY, and TURNER, were appointed the committee.

SATURDAY, March 2.

The bill, entitled "An act authorizing the issuing of debentures in certain cases," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, LEIB, and SMITH, of Maryland, were appointed the committee.

Mr. GERMAN, from the committee to whom was referred the bill, entitled "An act to annex a part of the State of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewiston; to make Cape St. Vincent, in the district of Sackett's Harbor, a port of delivery; and out of the districts of Miami and Mississippi, to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes," reported it without amendment.

On motion, by Mr. SMITH, of Maryland, the bill was read the third time by unanimous consent, and passed.

Mr. TAIT, from the committee to whom was referred the bill, entitled "An act declaring the consent of Congress to an act of the State of Georgia, passed the twelfth of December, one thousand eight hundred and four, 'establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's,'" reported it without amendment.

On motion, by Mr. SMITH, of Maryland, the bill was read the third time, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act authorizing a loan of money for a sum not exceeding five mil-

lions of dollars," together with the amendment reported thereto by the select committee; and the amendment having been agreed to, the President reported the bill to the House accordingly.

On the question, Shall this bill be read a third time as amended? it was determined in the affirmative. The bill was then read the third time as amended, by unanimous consent, and passed.

Mr. TAYLOR, from the committee to whom was referred the bill, entitled "An act for the relief of John Macnamara," reported it with an amendment, which was considered as in Committee of the Whole; and, having agreed to the amendment, the President reported the bill to the House accordingly.

On the question, Shall this bill be read the third time as amended? it was determined in the affirmative. The bill was then read the third time as amended, by unanimous consent, and passed.

The Senate resumed the motion made yesterday by Mr. PICKERING, that the injunction of secrecy on certain papers, communicated confidentially to the Senate, be taken off; and, on motion by Mr. BAYARD,

*Resolved*, That the injunction of secrecy be taken off in relation to the vote of the Senate this day, on the resolution of the first March, offered by Mr. PICKERING.

On the question to agree to the original motion, it was determined in the negative—yeas 8, nays 14, as follows:

YEAS—Messrs. Bayard, Goodrich, Lloyd, Pickering, Reed, Smith of New York, Taylor, and Turner.

NAYS—Messrs. Anderson, Condit, Cutts, Franklin, Gaillard, Gregg, Lambert, Leib, Pope, Robinson, Smith of Maryland, Tait, Whiteside, and Worthington.

## COMMERCIAL INTERCOURSE.

The bill, entitled "An act supplementary to the act, entitled 'An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" was read the third time.

On motion, by Mr. BRADLEY, that the bill be referred to a select committee, for the purpose of inserting the following section after the second section:

*"And be it further enacted*, That, in the event of its appearing to the President of the United States that the decrees of France have not been so revoked or modified as to cease to violate the neutral commerce of the United States from and after the second day of February, one thousand eight hundred and eleven, the President of the United States shall declare the fact by proclamation, and the said proclamation shall be conclusive evidence of the fact; and thereupon the operation of this act, and also of such parts of the act to which this act is a supplement, as were put into operation by the President's proclamation of the second of November last, shall cease and determine."

It was determined in the negative—yeas 9, nays 20, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Dana, Goodrich, Horsey, Lloyd, Pickering, and Pope.

NAYS—Messrs. Brent, Campbell, Clay, Condit,



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Bank of the United States.—General Wilkinson.

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Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Mathewson, Robinson, Smith, of Maryland, Smith, of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

On the question, Shall this bill pass? it was determined in the affirmative—yeas 20, nays 7, as follows:

YEAS—Messrs. Anderson, Brent, Campbell, Clay, Condit, Franklin, Gaillard, Gilman, Gregg, Lambert, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Turner, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Bradley, Dana, Goodrich, Horsey, Lloyd, and Pickering.

So it was *Resolved*, That this bill pass.

#### BANK OF THE UNITED STATES.

Mr. CLAY, from the committee to whom was referred, on the 25th February, the memorial of the stockholders of the Bank of the United States, praying that an act of Congress might be passed to continue the corporate powers of the bank for a further period, to enable it to settle such of its concerns as may be depending on the 3d of March, 1811, made the following report:

That your committee have duly weighed the contents of the memorial, and deliberately attended to such explanations of the views of the memorialists as they have thought proper to present through their agents. That, holding the opinion (as a majority of the committee do) that the Constitution did not authorize Congress originally to grant the charter, it follows, as a necessary consequence of that opinion, that an extension of it, even under the restrictions contemplated by the stockholders, is equally repugnant to the Constitution. But, if it were possible to surmount this fundamental objection, and if that rule which forbids, during the same session of the Senate, the re-agitation of a proposition once decided, were disregarded, your committee would still be at a loss to find any sufficient reasons for prolonging the political existence of the corporation for the purpose of winding up its affairs. For, as it respects the body itself, it is believed that the existing laws, through the instrumentality of a trust properly constituted, afford as ample means as a qualified continuance of the charter would, for the liquidation of its accounts, and the collection and final distribution of its funds. But should any inconvenience be experienced on this subject, the committee are persuaded it will be very partial, and such as the State authorities, upon proper application, would not fail to provide a competent remedy for. And, in relation to the community, if the corporation, stripped of its banking powers, were to fulfil *bona fide* the duty of closing its affairs, your committee cannot see that any material advantage would be derived. Whilst, on the contrary, if it should not so act, but should avail itself of the temporary prolongation, in order to effect a more durable extension of its charter, it might in its operations become a serious scourge.

Your committee are happy to say that they learn, from a satisfactory source, that the apprehensions which were indulged, as to the distress resulting from a non-renewal of the charter, are far from being realized in Philadelphia, to which their information has been confined. It was long since obvious that the vacuum, in the circulation of the country, which was to be produced by the withdrawal of the paper of the Bank of

the United States, would be filled by paper issuing from other banks. This operation is now actually going on. The paper of the Bank of the United States is rapidly returning, and that of other banks is taking its place. The ability to enlarge their accommodations is proportionately enhanced; and when it shall be further increased by a removal into their vaults of those deposits which are in the possession of the Bank of the United States, the injurious effects of a dissolution of the corporation will be found to consist in an accelerated disclosure of the actual condition of those who have been supported by the credit of others, but whose insolvent or tottering situation, known to the bank, has been concealed from the public at large.

Your committee beg leave to present the following resolution:

*Resolved*, That the prayer of the memorialists ought not to be granted.

The report was ordered to lie on the table.

#### CLAIM OF GENERAL WILKINSON.

Mr. BRADLEY, from the committee to whom was referred the memorial of General James Wilkinson, praying to be remunerated for moneys disbursed in the service of the United States, made the following report:

That the said Wilkinson has exhibited to them claims against the United States, to the amount of eleven thousand eight hundred dollars and ninety-six cents. It appears to your committee, from the documents and proofs produced by the petitioner to explain and support his claim against the public, that, of the above sum, \$6,719 73 are claimed for his disbursements and expenses incurred pending Burr's conspiracy; \$2,560 paid for a tract of land for the public service, now occupied by the troops on the Missouri river, near its mouth; \$450, the amount of his passage from Baltimore to Charleston, when ordered on extra duty by the President; and \$2,131 23, for losses of property sustained by his sudden transfer from St. Louis, where he was exercising the functions of a civil magistrate, to the Sabine, for the purpose of directing the arms of the nation against an invading force of the Spaniards.

Your committee have no hesitancy in saying that many of the charges appear to be legal and founded in justice, and may furnish a proper set off against the balance opposed to him by the War Department, and that the residue are entitled to equitable consideration; but, from the shortness of the time, and the pressure of business before the expiration of the session, your committee cannot find leisure to form that deliberate and clear judgment on the merits of the several items which justice to the petitioner and to the public require; they, therefore, beg leave to offer the following resolution:

*Resolved*, That the further consideration of the petition of General James Wilkinson, together with the accompanying documents, be postponed to the next meeting of Congress.

*Extract of a letter from General Wilkinson to the chairman of the committee of the Senate.*

WASHINGTON, March 1, 1811.

SIR; I have now the honor to present to the honorable committee the claim which I set up against the United States, sustained by an account current, duly vouched and explained; and I could conscientiously add to this amount the following sums:

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## Claim of General Wilkinson.

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Lost on the forced sale of household goods and furniture, at New Orleans, May, 1807	\$825 00
Lost on the forced sale of household goods on my books	120 00
Lost on the forced sale on a carriage and pair of horses	325 00
	<u>1,270 00</u>

In consequence of a peremptory order to repair to Richmond, for the purpose of attending Burr's trial, I was obliged to send the preceding property to the vendue-master, where it was knocked off for what it would bring.

But the clamor raised against me for saving the nation from a civil war, and upholding the existing Administration in office, by the most meritorious actions of my life, has been such that I have been heretofore restrained from asking for justice, much less seeking for liberality; and now, nothing but the penury incurred in the public service, and my desire to vindicate my character against the official calumnies of my enemies, could induce me to make the present application. It is possible the item charged against D. W. Ellicott may have been adjusted by the military agent; but finding the voucher among my papers, I have included it.

Should a question be made why this application should have been so long postponed, my answer would be, that, amidst the whirlwind of passion and prejudice excited against me, I do verily believe, had I asked for bread, I should have been offered a stone.

The committee will perceive, from the confidential tenor of the documents relative to Colonel ———'s visit to the city of Mexico, that they should not be exposed, and therefore I hope they may be returned to me. It will be observed, that he tendered a free gift of his toils, hazards, and expenses in the public service; but, believing that the acceptance would be unworthy the nation, and that the proposition sprung out of a sense of delicacy, opposed to the idea that it should be said that he had received money for doing that which might be called the duty of a spy, I insisted on his taking the bare expenses; and it was on the same ground of jealousy that he refused to give a receipt.

With great respect, &c.

JAMES WILKINSON.

Hon. STEPHEN R. BRADLEY.

*Remarks explanatory of the annexed account.*

The money paid Job Ruth was for the purpose expressed, pending Burr's conspiracy; the distance being six hundred miles.

The amount paid D. W. Ellicott was for the transport of public property from Fort Adams to New Orleans, to get it out of the way of the conspirators.

When Bollman was seized, he complained that he was without a cent; and to prove that the Government, while it protected itself, could not deal hardly with him, I advanced this sum by the hands of Lieut. William Wilson, now Captain Wilson, and stationed at Norfolk.

The money paid Ezra Haws needs no explanation.

The money paid Reibelt was for his services, and that of half a dozen others employed by him, to visit the taverns and suspected places in the city, to see and report what was passing.

The money paid Girard was for services past and prospective; he had been Colonel Burling's interpret-

er, on his route to Mexico; for these payments Simmons would give me no credit, although he holds the vouchers.

The payment to Mounet was for carrying advice to the Attorney General at Richmond of my approach, and various other witnesses whom I was directed to bring with me from New Orleans.

The payment to Pain was for transport of a part of these witnesses.

The payment for Colonel Burling is explained by the confidential documents submitted to the committee.

The charge for extraordinary expenses is explained by the oath of Captain Hughes.

The charge for money lost on the purchase of lands is deemed a fit subject for legislative bounty, because my absence on a distant and important service to the country caused the misfortune; and the public has received from another person the legal price of the land.

The charge for land, purchased on the Missouri, will be explained by an application to the War Department, where a deed for the land has been lodged.

The amount of sundries deducted from Simmons's account may be thus explained:

The New Orleans boat, in which the General embarked, was loaded with shot and shells for St. Louis, and not New Orleans, in the year 1805, and not the year 1806, and descended as far as Massac, where the load was shifted into barges to ascend the Mississippi.

The paint and awning charged for said boat is absurd; as neither the one nor the other will apply in any way to such flats.

The transport for camp equipage, baggage, and stores, was charged, because it is according to usage immemorial in the American, and all other armies; and can be considered no emolument, because these articles include books, papers, tents, marquees, and provisions, the transport of which belongs to the quartermaster's department, and cannot be attended to, or provided for, by a general officer.

Dr. *The United States to Gen. James Wilkinson.* For sundry disbursements incurred pending Burr's conspiracy, and subsequent to that period, either unprovided for by law, rejected by the accounting officer, or improperly charged by him:

1806, Nov. 14, To cash paid Job Ruth, for sending a despatch to Governor Claiborne, (V. No. 1.)	\$50 00
Nov. 18, To cash paid for the transport of public property to New Orleans, to D. W. Elliott, (V. No. 2.)	231 00
Dec. 15, To cash advanced to Erick Bollman, by the hands of Lieutenant William Wilson, when seized and sent from New Orleans to the United States, (V. No. 3.)	200 00
1807, Jan. 16, To cash paid Ezra Haws for the transport of prisoners and guard from New Orleans to Baltimore, (V. No. 4.)	550 00
May 18, To cash paid M. R. Reibelt, for secret service	\$200 00
To cash paid M. Girard, for secret service, as per A. D. Abraham's receipt, (V. No. 5.) and the note of William Simmons, per his printed account reported by the committee of Congress, February 22, 1809	150 00

350 00

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June 10, To cash paid for an express sent from Hampton to Richmond, on public service, during Burr's trial, to Joseph Mounet, (V. No. 6.)	30 00
June 13, To cash paid Richard Pain, for conveying witness from Hampton Roads to Richmond, during Burr's trial, (V. No. 7.)	80 00
To so much paid for the actual expenses of Walter Burling, Esq., on a visit to the city of Mexico, on public and secret service, during the Autumn and Winter of 1806-7, for which no receipt could be obtained	1,750 00
To extraordinary expenses over and above my daily pay, in New Orleans, pending the conspiracy of Burr, from the 25th of November, 1806, to the 24th May, 1807, inclusive, 181 days, at \$10 50 per day, (see the deposition of Captain Hughes, No. 9.)	1,900 00
To so much lost on purchase of land from the public in the State of Ohio; the said land being forfeited pending my opposition to the Spaniards on the Sabine, and Burr's conspiracy; which land was afterward sold for the legal price, as will appear from the Treasury books, (see certificate D.)	3,224 90
To interest on \$1,324 90, from the day of payment	806 33
To so much paid for the tract of land now occupied by the cantonment of the troops on the Missouri river, as per deed transmitted by the Secretary of War, February, 1809, agreed to be passed to my credit by the late President	2,500 00
To the amount of sundry articles improperly charged to my account by William Simmons, accountant of the War Department, (V. No. 8.)	1,578 73
To the amount for passage from Baltimore to Charleston, February, 1809, when engaged on a public mission, under the orders of the President of the United States, to the Captain General of the Havana	450 00
(Errors excepted :)	<u>\$11,809 96</u>

JAS. WILKINSON.

The charges of four hundred dollars should be credited by services rendered under the orders of the Secretary of War, as I performed the translations.

The articles under the head of the quartermaster's department are iniquitously charged, and in the face of the advice of the military agent, (see documents A, B, and C :) from which it would appear how anxiously Mr. Simmons searched for this charge; making it even a condition for the settlement of an account of many thousands of dollars. It will strike any one, that it was impossible the private horses of a single officer could have consumed such a quantity of forage, or that his fire would have required so much wood. The fact is this: a guard of fifty men helped to consume this fuel, and the horses of goers and comers, and a detachment of militia dragoons, were found out of the forage.

JAS. WILKINSON.

The report and accompanying documents were ordered to lie on the table.

The Senate adjourned to 6 o'clock this evening.

SATURDAY EVENING, 6 o'clock.

A message from the House of Representatives informed the Senate that the bill, which had passed the two Houses of Congress at the present session, entitled "An act for the relief of Richard Terpin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory," and presented to the President of the United States for his approbation, has been returned by the President of the United States with the following objections:

"Because the bill, in reserving a certain parcel of land of the United States, for the use of the said Baptist Church, comprises a principle and precedent for the appropriation of funds of the United States, for the use and support of religious societies, contrary to the article of the Constitution which declares that Congress shall make no law respecting a religious establishment."

And the House of Representatives, in which House the bill originated, have taken the question in the Constitutional way, and have

*Resolved*, That the said bill do not pass.

The House of Representatives have passed a bill, entitled "An act concerning invalid pensioners;" a bill, entitled "An act making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States;" and the bill, entitled "An act for allowing a reasonable compensation to the persons who have taken an account of the several manufacturing establishments and manufactures within the United States; in which bills they desire the concurrence of the Senate.

The three bills last mentioned were read, and passed to the second reading.

Mr. CAMPBELL asked and obtained leave to bring in a bill for the relief of Richard Terpin, William Coleman, Edwin Lewis, Samuel Mims, and Joseph Wilson; and, on motion, by Mr. SMITH, of Maryland, the bill was read the first and second time by unanimous consent. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative. The bill was then read the third time by unanimous consent, and passed.

The bill, entitled "An act concerning invalid pensioners," was read the second time by unanimous consent, and considered as in Committee of the Whole; and the bill having been amended, the President reported it to the House accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The bill entitled, "An act making appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States," was read the second and third times by unanimous consent, and passed.

The bill, entitled "An act for allowing a reasonable compensation to the persons who have

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taken an account of the several manufacturing establishments and manufactures within the United States," was read the second time by unanimous consent.

On motion, by Mr. TURNER, the bill last mentioned was read the third time by unanimous consent, and passed.

Mr. CAMPBELL presented the petition of a number of inhabitants of the State of Ohio, praying a continuation of the road from the City of Washington to the Ohio river, (at or near Wheeling, in the State of Virginia,) through the State of Ohio and the Indiana Territory, for reasons mentioned therein; and the petition was read, and ordered to lie on the table.

The Senate adjourned to ten o'clock to-morrow morning.

### SUNDAY, March 3.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, and Joseph Wilson," with an amendment, in which they desire the concurrence of the Senate; also, the bill, entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," with an amendment, in which they desire the concurrence of the Senate.

They have passed a bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clarke, on the 10th day of November, one thousand eight hundred and eight, and for other purposes;" also, a bill, entitled "An act to increase the salaries of the judges of the circuit court for the District of Columbia;" in which bills they desire the concurrence of the Senate.

The two bills last brought up for concurrence were severally read the first and second times by unanimous consent, and ordered to the third reading.

The bill, entitled "An act concerning invalid pensioners," was read the third time as amended.

*Resolved*, That this bill pass with an amendment.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, and Joseph Wilson," and concurred therein.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio." Whereupon,

*Resolved*, That they concur therein.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill to repeal the tenth section of the act, entitled "An act to incorporate

the subscribers to the Bank of the United States," and the third section of the act, entitled "An act supplementary to an act, entitled 'An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage,'" reported it without amendment; and, on his motion, the further consideration thereof was postponed to the first Monday in December next.

Mr. SMITH, of Maryland, from the committee to whom was recommended the bill for the relief of the collectors of the ports of Norfolk, Baltimore, and Philadelphia," reported it without amendment; and, on his motion, the further consideration thereof was postponed to the first Monday in December next.

The bill, entitled "An act to increase the salaries of the judges of the circuit court for the district of Columbia," was read the third time by unanimous consent, and passed.

The bill, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clarke on the 10th day of November, 1808, and for other purposes," was read the third time by unanimous consent, and passed.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act authorizing the issuing of debentures in certain cases," reported it without amendment; and, on his motion, the further consideration thereof was postponed to the first Monday in December next.

A message from the House of Representatives informed the Senate, that the House have passed the bill from the Senate, entitled "An act to extend the right of suffrage in the Indiana Territory, and for other purposes," with amendments; in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act allowing additional compensation to the Postmaster General;" in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read; and, on motion by Mr. BRADLEY, that it be now read a second time by unanimous consent, it was objected to.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to extend the right of suffrage in the Indiana Territory, and for other purposes," and concurred therein.

The Senate adjourned to 6 o'clock in the evening.

### SUNDAY EVENING, six o'clock.

*Resolved*, That Messrs. TURNER and CONDIT be a committee on the part of the Senate, with such committee as the House of Representatives may join, to wait on the President of the United States and notify him, that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

*Ordered*, That the Secretary acquaint the House of Representatives therewith, and request the appointment of a committee on their part.

Mr. BAYARD asked leave to bring in a bill

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making further appropriations for completing the Capitol, and for other purposes; and the unanimous consent of the Senate being necessary, it was objected to.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act to remit certain fines, penalties, and forfeitures;" a bill, entitled "An act for the relief of Charles Minifie;" also, a bill, entitled "An act for the relief of Lieutenant Colonel William Dent Beall;" in which bills they desire the concurrence of the Senate.

The three bills last brought up for concurrence were read, and severally postponed until the first Monday in December next.

The Senate resumed the bill, entitled "An act allowing additional compensation to the Postmaster General;" and, on motion by Mr. ANDER-

SON, the further consideration thereof was postponed to the first Monday in December next.

A message from the House of Representatives informed the Senate, that the House concur in the resolution for the appointment of a joint committee to wait upon the President of the United States, and notify him of the intended recess, and have appointed a committee on their part.

Mr. TURNER, from the joint committee, reported that they had waited upon the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

*Ordered*, That the Secretary notify the House of Representatives that the Senate, having finished the business before them, are about to adjourn. Whereupon, the PRESIDENT adjourned the Senate without day.

## PROCEEDINGS IN THE SENATE,

## IN SECRET SESSION,

## AT THE THIRD SESSION OF THE ELEVENTH CONGRESS.

THURSDAY, January 3, 1811.

The following confidential Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. Coles, his Secretary:

*To the Senate and House of*

*Representatives of the United States:*

I communicate to Congress, in confidence, a letter, of the 2d of December, from Governor Folch, of West Florida, to the Secretary of State; and another, of the same date, from the same, to John McKee.

I communicate, in like manner, a letter from the British Chargé d'Affaires to the Secretary of State, with the answer of the latter. Although the letter cannot have been written in consequence of any instruction from the British Government, founded on the late order for taking possession of the portion of West Florida well known to be claimed by the United States; although no communication has ever been made by that Government to this of any stipulation with Spain, contemplating an interposition which might so materially affect the United States; and although no call can have been made by Spain, in the present instance, for the fulfilment of any such subsisting engagement; yet the spirit and scope of the document, with the accredited source from which it proceeds, required that it should not be withheld from the consideration of Congress.

Taking into view the tenor of these several communications, the posture of things with which they are connected, the intimate relation of the country adjoining the United States, eastward of the river Perdido, to their security and tranquillity, and the peculiar interest they otherwise have in its destiny, I recommend

to the consideration of Congress, the seasonableness of a declaration that the United States could not see, without serious inquietude, any part of a neighboring territory, in which they have, in different respects, so deep and so just a concern, pass from the hands of Spain into those of any other foreign Power.

I recommend to their consideration, also, the expediency of authorizing the Executive to take temporary possession of any part or parts of the said territory, in pursuance of arrangements which may be desired by the Spanish authorities; and for making provision for the government of the same, during such possession.

The wisdom of Congress will, at the same time, determine how far it may be expedient to provide for the event of a subversion of the Spanish authorities within the territory in question, and an apprehended occupation thereof by any other foreign Power.

JAMES MADISON.

WASHINGTON, January 3, 1811.

The Message was read.

On motion by Mr. CLAY,

*Resolved*, That the Message from the President of the United States, of this day, which has been just read, be referred to a committee, with leave to report by bill or otherwise.

Mr. CLAY, Mr. CRAWFORD, Mr. BRADLEY, Mr. SMITH, of Maryland, and Mr. ANDERSON, were appointed the committee.

MONDAY, January 7.

Mr. CLAY, from the committee, appointed the 3d instant, on the confidential Message of the

*Executive Proceedings.*

President of the United States, reported a declaration and bill to enable the President of the United States to take possession of the country lying east of the Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes; which were read, and passed to a second reading.

On motion, by Mr. ANDERSON, that the bill be now read the second time; it was objected to, as against the rule.

On motion, by Mr. CRAWFORD, that the Secretary furnish each Senator, requiring it, with a manuscript copy of the said bill, it was determined in the negative—yeas 14, nays 16, as follows:

YEAS—Messrs. Bayard, Champlin, Crawford, Dana, Franklin, Goodrich, Horsey, Lambert, Lloyd, Pickering, Reed, Smith, of New York, Tait, and Whiteside.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Clay, Condit, Cutts, Gaillard, German, Gilman, Gregg, Leib, Mathewson, Robinson, Smith, of Maryland, and Taylor.

Mr. BAYARD submitted the following resolution for consideration:

*Resolved*, That the Secretary of the Senate be instructed to cause to be printed one copy for each member of the Senate, of the bill and declaration this day reported to the Senate by their select committee; and to adopt such measures as will insure the same being printed without danger of the secret proceedings of the Senate, on the subject, being disclosed.

On the question to agree thereto, it was determined in the negative—yeas 7, nays 23, as follows:

YEAS—Messrs. Bayard, Champlin, Goodrich, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Clay, Condit, Crawford, Cutts, Dana, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Mathewson, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, and Whiteside.

## TUESDAY, January 8.

The bill to enable the President of the United States to take possession of the country lying east of the Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, was read the second time; and, on motion by Mr. CLAY, it was considered as in Committee of the Whole.

On motion, by Mr. BAYARD, to amend the bill, by striking out of the first section thereof the words, "In the event of such arrangement for that purpose as shall have been made with the local authority which may then exist;" and, in lieu thereof, to insert the words, "In case an arrangement has been or shall be made with the local authority of the said territory for delivering up the possession of the same to the United States;"

On motion, by Mr. GILMAN, a division of the question was called for; and the question being put on striking out, it was determined in the affirmative.

The question was then taken upon inserting the proposed amendment, and determined in the affirmative—yeas 20, nays 12, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Campbell, Condit, Crawford, Franklin, German, Gregg, Lambert, Lloyd, Mathewson, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Tait, Taylor, and Worthington.

NAYS—Messrs. Bradley, Champlin, Clay, Cutts, Dana, Gaillard, Gilman, Goodrich, Horsey, Leib, Robinson, and Whiteside.

On motion, by Mr. BAYARD, further to amend the bill, by striking out of the first section thereof the words, "Or in the event of an attempt to occupy the said territory by any foreign Government," it was determined in the negative—yeas 11, nays 20, as follows:

YEAS—Messrs. Bayard, Bradley, Champlin, Dana, Franklin, Goodrich, Horsey, Lambert, Lloyd, Pickering, and Reed.

NAYS—Messrs. Anderson, Brent, Campbell, Clay, Condit, Crawford, Cutts, Gaillard, German, Gilman, Gregg, Leib, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Whiteside, and Worthington.

On motion, by Mr. BAYARD, it was agreed to amend the fourth section of the bill, by inserting, after the word "enacted," the words, "That in case possession of the territory aforesaid shall be obtained by the United States, as aforesaid."

## WEDNESDAY, January 9.

The Senate resumed, as in Committee of the Whole, the bill to enable the President of the United States to take possession of the territory lying east of the Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes.

Mr. LLOYD presented the oaths, or affidavits, subscribed and sworn to by Samuel Turner, jun., John G. McDonald, and Lewis H. Machen, for the faithful discharge of their respective duties as clerks in the office of the Secretary of the Senate of the United States; which were read, as follows:

I, Samuel Turner, jun., do solemnly swear, that I will, with fidelity, and to the best of my ability, perform the duties that may be assigned to me as a clerk in the office of the Secretary of the Senate of the United States; and that I will, faithfully and inviolably, keep secret all the confidential business of the Senate until I may be specially absolved therefrom.

SAMUEL TURNER, Jr.

DISTRICT OF COLUMBIA,  
County of Washington.

On the 9th day of January, 1811, Samuel Turner came before the subscriber, one of the United States' justices of the peace for the county, and made oath to the truth of the above statement.

JOHN OTT.

I, John G. McDonald, do solemnly swear, that I will, with fidelity, and to the best of my ability, perform the duties that may be assigned to me as a clerk in the office of the Secretary of the Senate of the United States; and that I will, faithfully and inviolably, keep secret all the confidential business of the Senate, until I may be specially absolved therefrom.

JOHN G. McDONALD.

Sworn to and subscribed before me, this 9th day of January, 1811. SAMUEL N. SMALLWOOD.

*Executive Proceedings.*

I, Lewis H. Machen, do solemnly swear, that I will, with fidelity, and to the best of my ability, perform the duties that may be assigned to me as a clerk in the office of the Secretary of the Senate; and that I will, faithfully and inviolably, keep secret all the confidential business of the Senate, until I may be specially absolved therefrom.

LEWIS H. MACHEN.

Sworn to and subscribed before me, this 9th day of January, 1811.

SAML. N. SMALLWOOD, J. P.

Whereupon, on motion by Mr. LLOYD,

*Resolved*, That the Secretary of the Senate be authorized to employ the clerks in his office, who have subscribed and taken the oath, the form of which has been read to the Senate, in transcribing or otherwise arranging the business confidentially communicated to the Senate.

On motion, by Mr. CLAY, it was agreed to amend the first section of the bill, by inserting the words, "or any part thereof," between the words "same" and "to."

On motion, by Mr. CLAY, it was agreed to amend the bill, by striking out all the words, in the second section, preceding the words, "and he may for, &c.," also, by striking out of the same section the words, "of the said detachment, and."

On motion, by Mr. CLAY, it was agreed further to amend the bill, by striking out of the third section the words, "for paying and subsisting such part of the detachment as may be required for actual service, and;" also, the word "other," between the words "such" and "expenses;" also, by inserting after the words "necessary for," the words, "obtaining possession as aforesaid, and;" and, also, by striking out the words, "and the Territories of the United States."

On motion, by Mr. CLAY, it was agreed further to amend the bill, by adding to the first section the remainder of the original second section; and by adopting the original third and fourth sections, as the second and third sections of the bill; and having gone through the amendments, the President reported the bill to the House accordingly.

On motion, by Mr. FRANKLIN, further to amend the bill, by striking out of the first section the words, "or in the event of the attempt to occupy the said territory, or any part thereof, by any foreign Government," it was determined in the negative—yeas 10, nays 19, as follows:

YEAS—Messrs. Bayard, Bradley, Champlin, Franklin, Goodrich, Horsey, Lambert, Lloyd, Pickering, and Reed.

NAYS—Messrs. Anderson, Brent, Campbell, Clay, Crawford, Cutts, Gaillard, German, Gilman, Gregg, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, and Whiteside.

On the question, "Shall this bill be engrossed and read a third time, as amended?" it was determined in the affirmative.

On motion, by Mr. CHAMPLIN, that the injunction of secrecy respecting the bill be taken off, and that the further discussion thereof be with open doors, it was determined in the negative—yeas 6, nays 24, as follows:

YEAS—Messrs. Bayard, Champlin, Goodrich, Horsey, Lloyd, and Pickering.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Clay, Crawford, Cutts, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Mathewson, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Whiteside, and Worthington.

Mr. ANDERSON submitted the following motion:

*Resolved*, That the subject-matter of the bill, entitled "An act to enable the President of the United States to take possession of the country lying east of the Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes," be kept inviolably secret by the members of the Senate, until the Senate shall, by their resolution, take off the injunction of secrecy.

Which was read; and on the question to agree thereto, it was determined in the affirmative—yeas 20, nays 6, as follows:

YEAS—Messrs. Anderson, Bradley, Brent, Clay, Crawford, Cutts, Franklin, Gaillard, Gilman, Gregg, Lambert, Leib, Pope, Reed, Robinson, Smith, of Maryland, Tait, Taylor, Whiteside, and Worthington.

NAYS—Messrs. Bayard, Champlin, Dana, Goodrich, Lloyd, and Pickering.

Mr. CUTTS, from the committee, reported the bill last mentioned, correctly engrossed.

A confidential message was received from the House of Representatives, by Mr. MONTGOMERY and Mr. CUTTS, two members of that body, with the following resolution, in which they ask the concurrence of the Senate:

CONGRESS OF THE UNITED STATES,

*In House of Representatives, Jan. 8, 1811.*

Taking into view the present state of the world, the peculiar situation of Spain and of the American provinces, and the intimate relation of the territory eastward of the river Perdido, adjoining the United States, to their security and tranquillity: Therefore

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States cannot see, with indifference, any part of the Spanish provinces, adjoining the said States, eastward of the river Perdido, pass from the hands of Spain into those of any other foreign Power.

The resolution was read, and passed to a second reading.

THURSDAY, January 10.

The bill to enable the President of the United States to take possession of the country lying east of the Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, was read the third time; and, on motion by Mr. CLAY, to fill the blank with the words "one hundred thousand dollars."

On the question to agree thereto, the Senate being equally divided, the President determined the question in the affirmative.

On the question, "Shall this bill pass, as amended?" it was determined in the affirmative—yeas 23, nays 7, as follows:

YEAS—Messrs. Anderson, Bradley, Brent, Campbell,

*Executive Proceedings.*

Clay, Condit, Crawford, Cutts, Franklin, Gaillard, Gilman, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, Taylor, Whiteside, and Worthington.

*NAYS*—Messrs. Bayard, Champlin, Goodrich, Horsey, Lloyd, Pickering, and Reed.

On motion, by Mr. CLAY, it was agreed to amend the title of the bill, by inserting the word "river," before the word "Perdido;" and after the word "States," by inserting the words "under certain contingencies."

So it was *Resolved*, That this bill do pass, and that the title thereof be "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes."

On motion, by Mr. CLAY,

*Resolved*, That a committee of two be appointed to carry the said bill to the House of Representatives, and ask their concurrence therein.

*Ordered*, That Mr. CLAY and Mr. BAYARD be the committee.

Mr. CLAY reported that the committee had performed the service assigned them.

The following confidential Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. Coles, his Secretary:

*To the Senate and House of Representatives of the United States:*

I communicate to Congress, in confidence, the translation of a letter from Louis de Onis to the Captain General of Caracacas.

The tendency of misrepresentations and suggestions, which, it may be inferred from this specimen, enter into more important correspondences of the writer, to promote, in foreign councils, at a critical period, views adverse to the peace and to the best interests of our country, renders the contents of the letter of sufficient moment to be made known to the Legislature.

JAMES MADISON.

JANUARY 10, 1811.

The Message and letter therein referred to, were read, and referred to a select committee, to consider and report thereon.

*Ordered*, That Mr. BAYARD, Mr. CRAWFORD, and Mr. CLAY, be the committee.

The resolution yesterday received, confidentially, by message, from the House of Representatives, was read the second time; and, on motion by Mr. CRAWFORD, it was referred to a select committee, to consider and report thereon; and Mr. ANDERSON, Mr. CRAWFORD, Mr. CLAY, Mr. BRADLEY, and Mr. SMITH, of Maryland, were appointed the committee.

Mr. CHAMPLIN submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such communications as may have been made to him by Louis de Onis, in relation to his having been appointed a special Minister to the United States by the Supreme Central Junta of Spain.

FRIDAY, January 11.

The resolution submitted yesterday by Mr. CHAMPLIN, was resumed; and, on his motion, it was agreed to amend the resolution, as follows:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such communications as may have been made to him by Louis de Onis, in relation to his having been appointed a special Minister to the United States by the Supreme Central Junta of Spain; and, also, in regard to the particular object of his appointment.

On the question to agree thereto, it was determined in the negative—yeas 9, nays 18, as follows:

*YEAS*—Messrs. Bayard, Champlin, Dana, Goodrich, Horsey, Lloyd, Pickering, Reed, and Worthington.

*NAYS*—Messrs. Anderson, Brent, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Smith of Maryland, Smith of New York, Tait, Taylor, and Whiteside.

Mr. ANDERSON, from the committee appointed on the subject, reported the confidential resolution from the House of Representatives, with the following amendment:

Strike out all the words after the word "the," first mentioned in the first line of the resolution, to the end thereof, and in lieu thereof, insert "peculiar situation of Spain and of her American provinces; and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity, and commerce: Therefore,

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign Power; and that a due regard to their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they, at the same time, declare that the said territory shall, in their hands, remain subject to a future negotiation.

Which report was read, and considered as in Committee of the Whole; and, on motion to adopt the report, a division of the question was called for by Mr. DANA, and the question to strike out was agreed to, and the amendment was adopted; and the President reported the resolution to the House accordingly.

*Ordered*, That the resolution pass to the third reading, as amended.

SATURDAY, January 12.

Mr. CUTTS, from the committee, reported the amendment to the confidential resolution from the House of Representatives, correctly engrossed; and the resolution was read the third time, as amended.

On the question, "Shall this resolution pass, as amended?" it was determined in the affirmative—yeas 23, nays 6, as follows:

*YEAS*—Messrs. Bradley, Brent, Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, German, Gilman, Gregg, Lambert, Leib, Mathewson, Pope, Rob-



*Executive Proceedings.*

inson, Smith of Maryland, Smith, of New York, Tait, Taylor, Whiteside, and Worthington.

*NAYS*—Messrs. Champlin, Dana, Goodrich, Lloyd, Pickering, and Reed.

On motion, by Mr. WORTHINGTON,

*Resolved*, That a committee of two be appointed to carry the said resolution and amendment to the House of Representatives, and ask their concurrence therein.

*Ordered*, That Mr. CLAY and Mr. PICKERING be the committee.

MONDAY, January 14.

Mr. CLAY, from the committee, reported that they had performed the duties assigned them on Saturday last.

The following confidential message was received from the House of Representatives, by Mr. MONTGOMERY and Mr. MILLER, two members of that body:

Mr. PRESIDENT: The House of Representatives agree to the amendment of the Senate, to the resolution making a declaration with respect to our Southern frontier.

They concur in the bill, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes."

Mr. CUTTS, from the committee, reported that they this day examined, and found duly enrolled, the bill and resolution last mentioned.

TUESDAY, January 15.

The following confidential message was received from the House of Representatives, by Mr. MONTGOMERY and Mr. MILLER, two members of that body:

Mr. PRESIDENT: The Speaker of the House of Representatives having signed an enrolled bill, and an enrolled resolution, we are directed to bring them to the Senate for the signature of their President.

The PRESIDENT signed the enrolled bill and resolution last reported to have been examined; and they were delivered to the committee, to be laid before the President of the United States.

FRIDAY, January 18.

Mr. CUTTS, from the committee, reported that they did, on the 15th instant, lay before the President of the United States the enrolled bill, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" also, the resolution making a declaration with respect to our Southern frontier.

The following confidential message was received from the House of Representatives, by Mr. MONTGOMERY and Mr. GRAY, two members of that body:

Mr. PRESIDENT: The President of the United States hath notified the House of Representatives that he did, on the 15th instant, approve and sign the enrolled resolution, making a declaration with respect to our Southern frontier.

The following confidential Message was received from the PRESIDENT OF THE UNITED STATES:

Mr. PRESIDENT: The President of the United States did, on the 15th instant, approve and sign "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes."

*Ordered*, That the Secretary communicate the same to the House of Representatives, confidentially.

SUNDAY, March 3.

Mr. CLAY submitted the following motion for consideration:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act, passed during the present session of Congress, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" and the declaration accompanying the same, be not printed or published, unless directed by the President of the United States, any law or usage to the contrary notwithstanding.

On motion, by Mr. CLAY, the resolution was twice read, by unanimous consent.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative.

Mr. CUTTS, from the committee, reported the resolution last mentioned, correctly engrossed; and the resolution was read the third time, by unanimous consent; and

*Resolved*, That this resolution do pass.

On motion, by Mr. TURNER,

*Resolved*, That a committee of two be appointed to carry the said resolution to the House of Representatives, and ask their concurrence therein.

*Ordered*, That Mr. TURNER and Mr. SMITH, of Maryland, be the committee.

Mr. TURNER, from the committee, reported that they had performed the duty assigned them.

A confidential message was received from the House of Representatives, by Mr. MONTGOMERY and Mr. MOORE, two members of that body, as follows:

Mr. PRESIDENT: The House of Representatives have passed the confidential resolution sent from the Senate, with amendments, in which they ask the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the said resolution. And

*Resolved*, That they do concur therein.

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On motion, by Mr. GAILLARD,

*Resolved*, That a committee of two be appointed to inform the House of Representatives that the Senate have concurred in the said amendments.

*Ordered*, That Mr. WORTHINGTON and Mr. BAYARD be the committee.

Mr. BAYARD, from the committee, reported that they had performed the duty assigned them.

Mr. CUTTS, from the committee, reported that they had examined, and found duly enrolled, the bill, entitled "An act concerning the act to enable the President of the United States, under certain contingencies, so take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, and the declaration accompanying the same."

A confidential message was received from the House of Representatives, by Mr. MONTGOMERY and Mr. MOORE, two members of that body:

Mr. PRESIDENT: The Speaker of the House of Representatives having signed an enrolled bill,

we are directed to bring it to the Senate for the signature of their President.

The PRESIDENT signed the enrolled bill, last reported to have been examined, and it was delivered to the committee, to be laid before the President of the United States.

Mr. CUTTS, from the committee, reported that they this day laid before the President of the United States the enrolled confidential bill last mentioned.

A confidential Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

Mr. PRESIDENT: The President of the United States this day approved and signed the confidential bill, entitled "An act concerning an act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, and the declaration accompanying the same,"

*Ordered*, That Mr. CUTTS and Mr. CAMPBELL be a committee to notify the House of Representatives thereof.

# PROCEEDINGS AND DEBATES

OF THE

## HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE THIRD SESSION OF THE ELEVENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, DECEMBER 3, 1810.

MONDAY, December 3, 1810.

This being the day appointed by the Constitution for the meeting of Congress, the following members of the House of Representatives appeared, and took their seats, to wit:

*From New Hampshire*—James Wilson.

*From Massachusetts*—Ezekiel Bacon, William Ely, and Joseph B. Varnum, *Speaker*.

*From Vermont*—Samuel Shaw.

*From Connecticut*—Epaphroditus Champion, John Davenport, jr., Jonathan O. Moseley, Timothy Pitkin, jr., and Benjamin Tallmadge.

*From New York*—James Emott, Jonathan Fisk, Robert Le Roy Livingston, Erastus Root, Thomas Sammons, John Thompson, Uri Tracy, and Killian K. Van Rensselaer.

*From New Jersey*—Adam Boyd, Jacob Hufty, and Henry Southard.

*From Pennsylvania*—William Anderson, David Bard, Robert Brown, William Crawford, William Findley, Daniel Heister, Aaron Lyle, William Milnor, John Rea, Matthias Richards, Adam Seybert, John Smilie, George Smith, Samuel Smith, and Robert Whitehill.

*From Maryland*—Charles Goldsborough, Alexander McKim, Philip B. Key, Archibald Van Horn, John Montgomery, and Nicholas R. Moore.

*From Virginia*—James Breckenridge, William A. Burwell, Matthew Clay, John Dawson, David S. Garland, Thomas Gholson, Peterson Goodwyn, Joseph Lewis, jr., Thomas Newton, John Roane, and James Stephenson.

*From North Carolina*—Willis Alston, jr., James Cochran, James Holland, Thomas Kenan, Nathaniel Macon, Archibald McBryde, Joseph Pearson, Richard Stanford, and John Stanley.

*From South Carolina*—Lemuel J. Alston, William Butler, Joseph Calhoun, Thomas Moore, John Taylor, and Robert Witherspoon.

*From Georgia*—William W. Bibb, Howell Cobb, and George M. Troup.

*From Kentucky*—Joseph Desha, Richard M. Johnson, and Samuel McKee.

*From Tennessee*—Pleasant M. Miller, John Rhea, and Robert Weakley.

*From Ohio*—Jeremiah Morrow.

Several new members, to wit: from Connecticut, EBENEZER HUNTINGTON, returned to serve in the place of Samuel W. Dana, appointed a Senator of the United States; from New Jersey, JOHN A. SCUDDER, in the place of James Cox, deceased; and from Maryland, ROBERT WRIGHT, in the place of John Brown, resigned; appeared, produced their credentials, were qualified, and took their seats.

A quorum, consisting of a majority of the whole House, being present, the Clerk of the House was directed to acquaint the Senate therewith.

On motion of Mr. DAWSON, a committee was appointed on the part of the House, jointly, with the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

The Clerk of the House was directed to procure newspapers from any number of offices that the members may elect, provided that the expense do not exceed the amount of three daily papers.

The House then adjourned until to-morrow morning eleven o'clock.

TUESDAY, December 4.

Several other members, to wit: from Massachusetts, RICHARD CUTTS, EBENEZER SEAYER, and CHARLES TURNER, jr.; from Rhode Island, ELISHA R. POTTER; from New York, THOMAS R. GOLD; from Pennsylvania, ROBERT JENKINS; and from Virginia, BURWELL BASSETT and JOHN W. EPPES; appeared, and took their seats in the House.

A new member, to wit: from New York, SAMUEL L. MITCHELL, returned to serve in the place of William Denning, resigned, appeared, produced his credentials, was qualified, and took his seat.

JONATHAN JENNINGS, the Delegate from the

## H. OF R.

## Standing Committees.

DECEMBER, 1810.

Indiana Territory, and JULIAN POYDRAS, the Delegate from the Territory of Orleans, appeared, and took their seats.

A message from the Senate informed the House that a quorum of the Senate is assembled, and ready to proceed to business. They have appointed a committee on their part, jointly, with the committee appointed on the part of this House, to inform the President of the United States that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

MR. DAWSON, from the joint committee appointed to wait on the President of the United States, reported that the committee had performed the service assigned them, and that the President answered that he would make a communication to the two Houses of Congress tomorrow at twelve o'clock.

## WEDNESDAY, December 5,

Several other members, to wit: from New Hampshire, DANIEL BLAISDELL and JOHN C. CHAMBERLAIN; from Massachusetts, J. QUINCY, SAMUEL TAGGART, and LABAN WHEATON; from Vermont, WILLIAM CHAMBERLIN, MARTIN CHITTENDEN, and JONATHAN H. HUBBARD; from Connecticut, LEWIS B. STURGES; from New York, VINCENT MATTHEWS, PETER B. PORTER, and EBENEZER SAGE; and from Rhode Island, RICHARD JACKSON, jr.; appeared, and took their seats in the House.

A Message was received from the PRESIDENT OF THE UNITED STATES, which was read at the Clerk's table.

[For this Message see Senate Proceedings of this date, *ante* page 11.]

The documents accompanying the Message having been read, in part, the House adjourned.

## THURSDAY, December 6.

The House resumed the reading of the documents accompanying the President's Message of yesterday, and having gone through the same, the Message and documents were committed to the Committee of the Whole on the state of the Union; and three thousand copies ordered to be printed for the use of the members of the House.

MR. SOUTHARD presented to the House certain proceedings of the Legislature of the State of New Jersey, disapproving of three amendments proposed to the Constitution of the United States, to wit: one by the Legislature of the State of Massachusetts, limiting the duration of any act laying an embargo within the United States; one by the Legislature of Virginia, "That the Senators in Congress may be removed from office by a vote of a majority of the whole number of the members of the respective State Legislatures by which the said Senators have been, or may be, appointed;" and the other by the Legislature of Pennsylvania, "That an impartial tribunal may be established to determine disputes between the General and State Governments;" which were read, and ordered to lie on the table.

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to report a bill authorizing the members of the Senate and House of Representatives to frank the President's Message and accompanying documents, transmitted to both Houses at the opening of the present session, notwithstanding the same may weigh more than two ounces avoirdupois: *Provided*, That each member, so franking, shall endorse on the wrapper, in substance, that the enclosure contains the said Message and documents, and them only, and subscribe his name to such endorsement.

A motion was made by MR. JOHNSON, that the House do now resolve itself into the Committee of the Whole House on the state of the Union; and the question being taken, it was determined in the negative.

The SPEAKER laid before the House certificates of the election of EBENEZER HUNTINGTON, of Connecticut; JOHN A. SCUDDER, of New Jersey; ROBERT WRIGHT, of Maryland; and WILLIAM MCKINLEY, returned to supply the vacancy occasioned by the resignation of John G. Jackson, of Virginia; which were referred to the Committee of Elections.

## STANDING COMMITTEES.

A motion was made by MR. W. ALSTON, that the House do now proceed to the appointment of the Standing Committees, pursuant to the rules and orders of the House.

Whereupon, the following committees were appointed:

*Committee of Elections*—MR. FINDLEY, MR. CLAY, MR. STURGES, MR. TROUP, MR. TAYLOR, MR. VAN RENSSELAER, and MR. TAGGART.

*Committee of Ways and Means*—MR. EPPES, MR. W. ALSTON, MR. TALLMADGE, MR. MONTGOMERY, MR. BACON, MR. SMILIE, and MR. JOHNSON.

*Committee of Commerce and Manufactures*—MR. NEWTON, MR. MITCHILL, MR. CUTTS, MR. PITKIN, MR. MCKIM, MR. SEYBERT, and MR. BIBB.

*Committee of Claims*—MR. ROOT, MR. BUTLER, MR. BROWN, MR. STANLEY, MR. GHOLSON, MR. GOLDSBOROUGH, and MR. SHAW.

*Committee on Public Lands*—MR. MORROW, MR. GOODWYN, MR. ELY, MR. BOYD, MR. GOLD, MR. COBB, and MR. MCKEE.

*Committee for the District of Columbia*—MR. VAN HORN, MR. L. ALSTON, MR. WEAKLEY, MR. G. SMITH, MR. J. C. CHAMBERLAIN, MR. TRACY, and MR. BRECKENRIDGE.

*Committee on the Post Office and Post Roads*—MR. RHEA of Tennessee, MR. THOMPSON, MR. DESHA, MR. STANFORD, MR. TROUP, MR. CALHOUN, MR. MORROW, MR. DAVENPORT, MR. CHITTENDEN, MR. WHITEHILL, MR. J. SMITH, MR. POTTER, MR. WILSON, MR. SEAVER, and MR. HUFTY.

*Committee of Revision and Unfinished Business*—MR. SOUTHARD, MR. JACKSON, and MR. WITHERSPOON.

*Committee of Accounts*—MR. N. R. MOORE, MR. TURNER, and MR. KENAN.

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*Amendment to the Constitution.*

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FRIDAY, December 7.

Another member, to wit: from New Jersey, WILLIAM HELMS, appeared, and took his seat in the House; also, a new member, to wit: from Maryland, SAMUEL RINGGOLD, returned to serve in the place of Roger Nelson, resigned, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. LEWIS presented a petition of the President and Directors of the Farmers' Bank of Alexandria, signed by Richard M. Scott, their President, praying that a charter of incorporation may be granted, according to the terms of their association, or upon such other terms as Congress may think proper to prescribe; which was read, and referred to the Committee for the District of Columbia.

On motion of Mr. BACON,

*Resolved*, That the Secretary of State be directed to lay before this House a list of the names of persons who have invented any new or useful art, machine, or composition of matter, or any improvement thereon, and to whom patents have issued for the same, from that office, subsequent to the twenty-third day of January, one thousand eight hundred and five, with the dates and general objects of such patents.

*Resolved*, That the Committee of Ways and Means be instructed to prepare and bring in a bill establishing a suitable annual salary for the additional Assistant Postmaster General, authorized by the act regulating the Post Office Establishment, passed at the last session of Congress.

On motion of Mr. ROOR, the House resolved itself into a Committee of the Whole on the state of the Union.

Mr. R. then moved the appointment of several committees on the President's Message; but it being suggested that the documents had not been laid on the tables of the members, the committee rose without deciding on anything in relation to the Message.

On motion of Mr. FISK,

*Resolved*, That the apportionment of Representatives amongst the several States, according to the third enumeration of the people, ought to be in the ratio of one Representative for every — thousand persons in each State; and that a committee be appointed to bring in a bill accordingly.

Mr. FISK, Mr. MOSELEY, Mr. MOORE of South Carolina, Mr. QUINCY, Mr. COCHRAN, Mr. BARD, and Mr. MILLER, were appointed.

The House adjourned until Monday.

MONDAY, December 10.

Several other members, to wit: from Massachusetts, GIDEON GARDNER; from New York, GURDON S. MUMFORD; from Pennsylvania, JOHN PORTER; from Virginia, JOHN LOVE and DANIEL SHEFFEY; and from North Carolina, LEMUEL SAWYER; appeared, and took their seats.

The SPEAKER laid before the House a certificate of the election of WILLIAM T. BARRY, elected to

supply the vacancy occasioned by the resignation of Benjamin Howard, of Kentucky; which was referred to the Committee of Elections.

Mr. LEWIS presented a petition of the President and Directors of the Bank of Potomac, in Alexandria, in the District of Columbia, praying for an act of incorporation to take effect from the third of March next; which was read, and referred to the Committee for the District of Columbia.

On motion of Mr. DAVENPORT,

*Resolved*, That two Chaplains, of different denominations, be appointed to Congress, for the present session, one by each House, who shall interchange weekly.

Mr. RHEA, of Tennessee, from the Committee on Post Offices and Post Roads, presented a bill to authorize the transportation of certain documents by mail, free of postage; which was read twice and ordered to be engrossed, and read the third time to-day.

Mr. KEY presented a petition of Lewis Grant Davidson, of the City of Washington, stating that, for the purpose of inheriting a large estate, he has assumed the surname of Davidson, having heretofore been distinguished by the surname of Grant, and praying that a law may be passed ratifying and confirming to him and his heirs forever the said surname of Davidson.—Referred to Mr. KEY, Mr. EMOTT, Mr. SAWYER, Mr. SHEPHERD, and Mr. S. SMITH, to consider and report thereon to the House.

#### AMENDMENT TO THE CONSTITUTION.

Mr. MACON said that he had, late in the last session, laid upon the table a motion to amend the Constitution of the United States. He had done it at that time merely with a view to give notice of his intention to offer such a proposition at the present session. This amendment spoke so plainly for itself that it was unnecessary to explain it. It would be seen that its object was to prevent any member of Congress from accepting an appointment in the Presidential term during which he might be a member; for instance, it would go to prevent any member of the present Congress, from accepting an appointment under the present Chief Magistrate. The following is the resolution:

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following section be submitted to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid and binding as a part of the Constitution of the United States.

"No Senator or Representative, after having taken his seat, shall, during the time for which he was elected, be eligible to any civil appointment under the authority of the United States, nor shall any person be eligible to any such appointment until the expiration of the Presidential term, during which such person shall have been a Senator or Representative."

This resolution was, on motion of Mr. MACON, referred to the Committee of the Whole on the state of the Union.

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President's Message.

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## PRESIDENT'S MESSAGE.

On motion of Mr. ALSTON, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. MACON in the Chair.

The Message of the President of the United States having been read—

Mr. ROOT moved the following resolutions:

1. *Resolved*, That so much of the Message of the President of the United States as relates to the subject of our foreign relations, be referred to a select committee.

2. *Resolved*, That so much as relates to that part of West Florida, acquired by the cession of Louisiana, be referred to a select committee.

3. *Resolved*, That so much as relates to the encouragement of American manufactures and navigation, be referred to the Committee of Commerce and Manufactures.

4. *Resolved*, That so much as relates to the institution of a National University, be referred to a select committee.

5. *Resolved*, That so much as relates to the violation of laws interdicting the slave trade, be referred to the Committee of Commerce and Manufactures.

6. *Resolved*, That that part relating to fortifications be referred to a select committee.

7. *Resolved*, That that part in regard to the militia, be referred to a select committee.

8. *Resolved*, That so much as relates to the Corps of Engineers and Military Academy be referred to a select committee.

When the resolution respecting West Florida was under consideration—

Mr. NEWTON said he wished to know from the gentleman who moved the resolutions why he had spoken of a *part* of West Florida only? Whether the whole was not included in the cession?

Mr. ROOT said he had supposed that no more territory had been acquired by the Treaty of St. Ildefonso, than lies west of the Perdido; whilst West Florida was understood to extend as far east as Pensacola. But if the whole had been ceded, so much the better; all that part "acquired by the cession," was embraced by the resolution.

Mr. T. MOORE moved to amend the resolution so as to read "so much as relates to West Florida, *as ceded* to the United States."

Mr. MITCHILL remarked that the resolution was about as perspicuous as could well be devised. If there was any ambiguity in it, it was derived from the Message, in which West Florida was mentioned, although he believed no such name was to be found in the convention for the cession of Louisiana. If the resolution conformed to the message, it was not worth while to go into a discussion as to the different appellations which had at different times been given to the territory in question. Mr. M. took a brief view of the different transfers of that territory, observing that the term West Florida was not known in Spanish geography, being an arrangement made by the British whilst they held possession; so that, in fact, this was a question of British and American geography on one side, and Spanish and French on the other. Upon the whole, as the resolution

corresponded with the language of the Message, and was sufficiently intelligible at present, he was opposed to the amendment.

The amendment was lost.

When the resolution respecting the encouragement of American navigation and manufactures was under consideration—

Mr. BURWELL suggested the propriety of referring the subjects to two distinct committees. This motion was supported by Mr. ALSTON. It was contended that the duties of the Committee of Commerce and Manufactures were sufficiently arduous, without burdening them also with the subject of manufactures. Mr. ALSTON took occasion to observe that the subject of manufactures had heretofore been rather neglected, and it was proper that more attention should be paid to it.

Mr. NEWTON opposed the motion for dividing the subject between the two committees. How were they to encourage manufactures, he asked, unless by laying additional duties upon foreign tonnage and manufactures? Mr. N. repelled the insinuation that manufactures had experienced neglect under the guidance of the Committee of Commerce and Manufactures. He contended that on the contrary they had thriven and flourished under their care, although the House had never consented to take as effectual measures for their support as had been recommended by the committee.

Mr. MITCHILL said he too was opposed to severing things which had in their nature an essential connexion; for instance, he thought that the proposed separation of the subjects of commerce and manufactures was unnatural and preposterous. On a review of what had been done by Congress, he thought the friends of domestic manufactures had much cause to be satisfied. He recited the various encouragements which had been given to manufactures by Congress, in permitting the importation of the raw materials free of duty, and in laying heavy duties on the importation of manufactured articles. On the whole, he thought that as commerce and manufactures in fact were inseparable, they ought not to be divided by any regulation of the House.

The motion to amend was lost.

On motion of Mr. DAWSON, the resolution respecting fortifications was amended by inserting the words "land forces and" preceding the word "fortifications."

On motion of Mr. BASSETT, the following resolution was adopted:

9. *Resolved*, That so much as relates to the Navy of the United States, be referred to a select committee.

The Committee rose and reported the resolutions to the House, which were immediately adopted; and the several committees ordered to be appointed accordingly.

Mr. EPPES, Mr. TAYLOR, Mr. FISK, Mr. MONTGOMERY, Mr. SEAVER, Mr. CHITTENDEN, and Mr. DESHA, were appointed a committee, pursuant to the first resolution.

Mr. WRIGHT, Mr. SAGE, Mr. GARDNER, Mr. CRAWFORD, Mr. LEWIS, Mr. MCBRYDE, and Mr. RHEA of

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Tennessee, were appointed a committee, pursuant to the second resolution.

Mr. Mitchell, Mr. Burwell, Mr. Macon, Mr. J. Porter, Mr. Pitkin, Mr. Wheaton, and Mr. Ringgold, were appointed a committee, pursuant to the fourth resolution.

Mr. Dawson, Mr. Helms, Mr. Cobb, Mr. Rea of Pennsylvania, Mr. Champion, Mr. Livingston, and Mr. Hubbard, were appointed a committee, pursuant to the sixth resolution.

Mr. Root, Mr. Turner, Mr. Potter, Mr. Cobb, Mr. Holland, Mr. Butler, Mr. J. Smith, Mr. Weakley, Mr. Morrow, Mr. McKee, Mr. N. R. Moore, Mr. George Smith, Mr. Scudder, Mr. Huntingdon, Mr. William Chamberlin, Mr. Blaisdell, and Mr. Jennings, were appointed a committee, pursuant to the seventh resolution.

Mr. Peter B. Porter, Mr. Love, Mr. Lyle, Mr. Pearson, and Mr. Ely, were appointed a committee, pursuant to the eighth resolution.

Mr. Bassett, Mr. Mumford, Mr. Quincy, Mr. Kenan, Mr. Milnor, Mr. Taylor, and Mr. Jackson, were appointed a committee, pursuant to the ninth resolution.

Mr. BACON remarked that at present a doubt might exist whether the subject of the defects in the non-intercourse law, alluded to in the Message, was referred to the Committee of Commerce and Manufactures or to the Committee on Foreign Relations. To remove this doubt he moved the following resolution, which was agreed to :

10. *Resolved*, That so much of the Message of the President of the United States as relates to the defects which may be found to exist in the provisions of the act concerning the commercial intercourse between the United States and Great Britain and France, be referred to the Committee on Foreign Relations.

#### TUESDAY, December 11.

Several other members, to wit; from New York, HERMAN KNICKERBACKER; from Virginia, EDWIN GRAY and JACOB SWOOPE; and from South Carolina, RICHARD WINN; appeared, and took their seats.

Mr. VAN RENSSELAER presented a petition of sundry officers and soldiers, and the heirs of officers and soldiers, who served in the British army in America in the war between England and France, between the years 1755, and 1763, now residing in the county of Albany, State of New York, paying that their claims to lands for services in the said war may be investigated, and that, if any be found due to them, they may receive grants for the same.—Referred to the Committee on the Public Lands.

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress, for the present session, who shall interchange weekly.

An engrossed bill to authorize the transportation of certain documents, free of postage, was read the third time, and passed.

The House proceeded to consider the resolution from the Senate, for the appointment of two

Chaplains to Congress, who shall interchange weekly; and the same being read, was agreed to by the House.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress on their part; and, upon examining the ballots, it appeared that the whole number of votes were one hundred and five, that fifty-seven were given for the Reverend Mr. LEE, forty-seven for the Reverend Mr. BRECKENRIDGE, and one for the Reverend Mr. BROWN.

Mr. LEE, having a majority of the whole number given, was, consequently, declared duly elected.

#### WEDNESDAY, December 12.

Two other members, to wit: from North Carolina, MESHACK FRANKLIN and WILLIAM KENNEDY, appeared, and took their seats.

A Message was received from the President of the United States, transmitting a report of the Secretary of State, from which it will be seen, that a very considerable demand beyond the legal appropriations has been incurred for the support of seamen distressed by seizures, in different parts of Europe, of the vessels to which they belonged.—The Message and report were referred to the Committee of Ways and Means.

Mr. JOHNSON presented a petition of John and Edward Tanner, of Louisiana, praying the aid and patronage of Congress, in opening a canal navigation between the waters of the Mississippi and St. Francis Rivers; also the pre-emption right to a certain tract of land on which are two mill seats; and to be authorized to open a road direct from New Madrid, in Louisiana, to Nashville, in Tennessee; and that the said road may be established as a post road of the United States.

*Ordered*, That so much of the said petition as respects a pre-emption right to land be referred to the Committee on the Public Lands; that so much as relates to opening a road be referred to the Committee on Post Offices and Post Roads; and that that part thereof which relates to opening a canal, be referred to a select committee.

Mr. JOHNSON, Mr. RICHARDS, and Mr. SWOOPE, were appointed the said committee.

Mr. KEY, from the committee appointed, on the tenth instant, on the petition of Lewis Grant Davidson, made a report; which was read, and the resolution therein contained concurred in by the House, as follows:

*Resolved*, That the prayer of the petitioner is reasonable, and ought to be granted.

*Ordered*, That a bill be brought in, pursuant to the said resolution; and that the same committee do prepare and bring in the same.

On motion of Mr. MORROW,

*Resolved*, That the Committee on the Public Lands be instructed to inquire whether any, and what, further provision is necessary to be made for settling the claims to land, and for surveying and sale of the lands of the United States, in the Territories of Orleans and Louisiana; and that the committee report by bill, or otherwise.

Mr. FISK, from the committee appointed the

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seventh instant, presented a bill for the apportionment of Representatives among the several States, according to the third enumeration; which was read twice and committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have appointed the Rev. Mr. ADDISON a Chaplain to Congress, on their part, during the present session. They have also passed a bill, entitled "An act to suspend the second section of the act, entitled 'An act regulating foreign coins, and for other purposes,'" to which they desire the concurrence of this House.

The said bill was read twice and committed to a Committee of the Whole to-morrow.

#### PATENT OFFICE.

Mr. MITCHILL remarked that Congress had, by virtue of the power expressly granted by the Constitution to secure to individuals their intellectual property, passed several statutes, together constituting what was called the patent office. He said it was extremely evident to every one who inquired into the subject, that the power granted to the Secretary of State in this respect was incomplete. Adverting to the measures taken at the last session, and commenced at this, towards the improvement of the state of that office, Mr. M. said he wished to go a step further by adopting the following resolution:

"Resolved, That a committee be appointed to inquire whether any, and, if any, what amendments ought to be made in the several acts insuring to individuals an exclusive privilege in their several inventions and discoveries, and that they report thereon by bill or otherwise."

The resolution was agreed to; and

Mr. MITCHILL, Mr. STEPHENSON, and Mr. KENNEDY, were appointed a committee pursuant to the said resolution.

#### FINANCES.

The following letter and report were received from the Secretary of the Treasury:

TREASURY DEPARTMENT, Dec. 11, 1810.

SIR: I have the honor to enclose a report, prepared in obedience to the act entitled "An act to establish the Treasury Department."

I have the honor to be, &c.,

ALBERT GALLATIN.

Hon. SPEAKER of the House of Reps.

TREASURY DEPARTMENT, Dec. 10, 1810.

In obedience to the directions of the act supplementary to the act entitled "An act to establish the Treasury Department;" the Secretary of the Treasury respectfully submits the following report and estimates:

#### Revenue.

The net revenue arising from duties on merchandise and tonnage which accrued during the year 1808, amounted to \$10,348,000.

The net revenue arising from the same sources, which accrued during the year 1809, amounted, as will appear by the statement, (A,) to \$6,527,000.

The statement (B) exhibits in detail the several species of merchandise and other sources from which that revenue was derived during the year 1809.

It is ascertained that the net revenue arising from the same duties has, for the first three quarters of the year 1810, exceeded \$7,500,000; and it is believed that it will not, for the whole year, fall short of twelve millions.

The sales of public lands north of the Ohio river have, during the year ending on the 30th of September, 1810, as appears by the statement (C,) amounted to 159,000 acres, and the payments by purchasers to \$610,000.

The same statement shows that the total amount of sales, from the establishment of the Land Offices in the year 1800, to the 30th of September, 1810, have amounted to 3,168,000 acres, which have produced \$6,681,000; of which sum \$1,646,000 remain due by purchasers. The sales in the Mississippi Territory being, after deducting expenses, appropriated in the first place to the payment of \$1,250,000 to the State of Georgia, are distinctly stated.

#### Receipts and Expenditures.

##### 1. Year ending on the 30th of September, 1810.

The actual receipts into the Treasury, during the year ending on the 30th of September, 1810, have amounted to	\$8,685,861 17
Making, together with the balance in the Treasury, on the 1st of October, 1809, and amounting to	5,828,936 01
An aggregate of	14,517,797 18

The disbursements during the same year have consisted in the following items, viz:

Civil department, including miscellaneous expenses, and those incidental to the intercourse with foreign nations	\$1,249,200 06
Military and Indian departments	2,514,523 75
Navy	1,674,735 50
	4,189,259 25
Interest on the public debt	2,735,898 91
Total current expenses	8,174,358 22
Payments on account of the principal of the public debt	2,884,409 24

Amounting together, as will appear more in detail by the statement (E) to	11,058,767 46
And leaving in the Treasury on 30th of September, 1810, a balance of	3,459,029 72
	14,517,797 18

It therefore appears that the actual receipts into the Treasury have exceeded the current expenses of Government, including therein the interest on the debt, by a sum of five hundred thousand dollars: the expenses had during the preceding year exceeded the receipts by a sum of thirteen hundred thousand dollars. The difference arises, not from an increase in the receipts, but from a diminution in the expenses, particularly those of the Military and Naval Departments.

##### 2. Last quarter of the year 1810.

The receipts for that quarter will, it is believed, be more than sufficient to defray the current expenses and interest on the debt accruing during the same period. But the payments to be made on account of the prin-



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principal of the debt in order to complete the annual appropriations of eight millions of dollars, amounting to more than \$5,100,000, a loan first negotiated for \$3,750,000, and afterwards reduced to \$2,750,000, became necessary. The receipts and disbursements for that quarter are therefore estimated as follows:

Receipts into the Treasury from the ordinary revenue	\$2,500,000
Proceeds of the loan receivable on 31st of December, 1810	2,750,000
Balance in the Treasury on 1st of October, 1810	3,460,000
	<u>8,710,090</u>

Expenses, civil, military, and naval, estimated	1,570,000
Interest accruing on the domestic debt	500,000
	<u>2,070,000</u>

Payments on account of the public debt, in order to complete the annual appropriation of eight millions, and including the reimbursement of 31st of December, 1810, on the six per cent. and deferred stocks, and that of same date, of \$3,751,125 exchanged six per cent. stock	4,640,000
	<u>6,710,000</u>

Probable balance in the Treasury on the 31st of December, 1810	2,000,000
	<u>8,710,000</u>

### 3. Year 1811.

The outstanding revenue bonds, after deducting the expenses of collection and allowing for bad debts, will not probably, on the 1st of January, 1811, fall short of eleven millions and a half of dollars; the actual receipts for the year 1811, on account of the sales of lands, may be estimated at five hundred thousand dollars; and it is presumed that the portion of the revenue arising from importations subsequent to the present year, which will be received in 1811, will be more than sufficient to pay the debentures payable in that year. The actual receipts into the Treasury during that year may therefore be estimated at \$12,500,000.

Estimating the expenses of Government for the year 1811, not to exceed the amount actually expended during the year ending on the 30th of September, 1810, that is to say—

Expenses of a civil nature, both domestic and foreign	\$1,240,000
Military and Naval Departments	4,190,000
	<u>5,430,000</u>

And adding thereto the interest on the public debt, estimated at	2,550,000
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The aggregate of the current expenses, exclusively of the payments on account of the principal of the debt, would not exceed	7,980,000
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The payments on account of the principal of the debt will be applicable to the annual reimbursement on the six per cent. and deferred stocks, to the repayment of the loan of \$5,750,000

effected this year, and to the reimbursement in part of the converted six per cent. stock, and must, in order to complete the annual appropriation of eight millions of dollars, amount to -

5,450,000

Making for the whole amount of the expenditures of the year 1811 or about one million of dollars more than the receipts for the same year.

If, therefore, this estimate could be relied on, an authority to borrow one million of dollars would be sufficient to enable Government to pay all the current expenses, and to reimburse nearly four millions and a half of the principal of the debt, leaving at the same time in the Treasury a balance of two millions of dollars, a sum not greater than what under existing circumstances it is eligible to reserve. But a deficiency may take place in the receipts if the amount of debentures should exceed what has been estimated; and for the expenses for the Military and Naval Departments, (which, according to the estimates of those departments, and exclusively of the sum necessary for fortifications, amount to \$4,916,000,) may be greater than the amount actually expended during the year ending on the 30th of September, 1810. In order to provide for these and other unforeseen contingencies, the propriety of authorizing a reloan not exceeding in the whole the amount of the principal of the debt reimbursed during the same year, is respectfully submitted.

### *Public Debt.*

It appears by the statement (D) that the payments on account of the principal of the public debt have amounted during the year ending on the 30th day of September, 1810, to \$2,884,000, and during the nine years and a half ending on the same day to near \$37,700,000, exclusively of more than six millions of dollars paid in conformity with the provisions of the Convention with Great Britain and of the Louisiana Convention.

Taking the calendar year 1810 by itself, the principal of the debt actually reimbursed will amount to \$5,163,376, viz:

Annual reimbursement of six per cent., and deferred stocks	\$1,412,251
Reimbursement of the six per cent. exchanged stock	3,751,125
	<u>5,163,376</u>

From which deducting the loan from the bank of	2,750,000
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Leaves for the actual decrease of the debt during the year	2,413,376
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The loan authorized by the act of last session had at first been negotiated in the latter end of May for \$3,750,000; but the expenses having proven less than had been supposed, it was by mutual consent reduced in October to \$2,750,000. With that object in view, in order that no greater sum should be ultimately borrowed than might be necessary, and also in order to avoid as long as practicable an increase of stock in the market, and that of a more permanent species of debt, a temporary loan from the Bank of the United States was preferred to any other mode. It is reimbursable on the last day of December, 1811, with a reservation that the bank may, in case of a non-re-

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newal of its charter, demand an earlier payment on giving three months' notice. This condition may, if enforced, save some interest to the public, and can produce no inconvenience, as there will be no greater difficulty in effecting a new loan (if necessary) in the middle than in the latter end of the year. The documents F. G. H. I. show both the object and the terms of the loan.

From what has been stated, it appears that no other provisions are necessary for the year 1811, than a continuance of the additional  $2\frac{1}{2}$  per cent. duty, commonly called the Mediterranean Fund, and an authority to borrow a sum, probably much less, and certainly not greater than the amount of the principal of the public debt which will be reimbursed during the year. But as in conformity with the act of 1st of May, 1810, the importation of articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of Great Britain will be prohibited after the 2d day of February next, if that nation shall not, before that time, so revoke or modify her edicts as that they shall cease to violate the commerce of the United States, some provisions appear necessary for the purpose of supplying the deficiency in the revenue arising from that cause, and of giving to that measure all the efficacy of which it is susceptible.

The probable defalcation in the revenue cannot, for obvious reasons, be at this time estimated with any degree of precision. The experience of the ensuing year can alone afford sufficient data for a permanent and detailed plan adapted to that state of things, and calculated to insure perseverance in the system as long as may be thought proper. But in the meanwhile, it appears essential to lay the foundation of such plan, and to guard in time against any great deficit in the receipts of the year 1812. It is believed that under existing circumstances it would be sufficient to render those receipts equal or nearly equal to the current expenditure, including therein the interest on the public debt, and estimated at about eight millions of dollars; and with a view to that object, a considerable and immediate increase of the present duties on importations is respectfully suggested.

It is not less important that the act should be free of legal difficulties and of well-founded objections, and that it should be enforced by every practicable means. On that subject the following observations are submitted:

1. The law of 1st of May, 1810, has neither expressly defined the edicts, the revocation of which is expected, nor made a notification by the President the evidence and sole evidence of the fact. It follows that in case of an unsatisfactory modification of her edicts by Great Britain, the decision of the question itself, whether the non-importation be actually in force or not will be left to the courts, whence delays and embarrassments will arise which will considerably impede the operation of the law.

2. The non-importation is to take place on the 2d day of February next, if a revocation shall not have taken place before that day. But this may have taken place and not be known on that day in the United States. If the collectors abstain from seizing merchandise imported after that day, until the fact shall have been ascertained, and the edicts shall not have been revoked, the merchandise will escape forfeiture, and the law during that period will be inoperative. If they seize, and the edicts shall have been revoked, the seizures will have been illegal, and the collectors will

be liable to personal suits. This inconvenience may be remedied by a provision, directing, that during that period it shall be the duty of the collectors to make seizures, but, that the goods shall be restored to the parties on their giving bond with sureties for the value.

3. No exception has been made by the act in favor of vessels which have sailed for the British East Indies prior to the President's proclamation, and the short period of three months from the date of that proclamation to the day when the law is to take effect will occasion forfeitures or heavy losses in cases of *bona fide* American property in England paid for or ordered prior to the proclamation. It seems in every point of view eligible that cases clearly foreseen should be provided for by law, instead of being left to Executive discretion.

4. It is believed that an abandonment by the United States of their share of the penalties and forfeitures which may be incurred, and the distribution of these, according to the circumstances of the case, among the collectors, the other custom-house officers, the inspectors who heretofore have had no share, and the informers, would insure a greater degree of zeal and vigilance in detecting and preventing infractions of the law.

5. Some additional provisions will be necessary to enforce the law on the Northern frontier of the United States, among which may be reckoned: the erection of some new collection districts, particularly on the river St. Lawrence and in the eastern part of the State of Vermont; an increase of salary to the collectors in that quarter, inasmuch as under the non-importation, that part of their compensation which is derived from fees will be considerably reduced; and that which arises from commissions altogether lost; and an authority to the armed force of the United States to make seizures. And it must be added, that the peculiar situation of those districts will render condemnations extremely difficult, unless the obligation be imposed on persons claiming merchandise seized there to prove that the same was legally imported.

All which is respectfully submitted.

ALBERT GALLATIN.

The letter and report having been read, so much thereof as relates to the revenue was referred to the Committee of Ways and Means, and so much as relates to the act respecting commercial intercourse, &c., to the Committee of Foreign Relations.

THURSDAY December 13.

Another member, to wit: From Georgia, DENNIS SMELT, appeared and took his seat; also two other new members, to wit; JOSEPH ALLEN, from Massachusetts, in the place of Jabez Upham, resigned, and WILLIAM T. BARRY, from Kentucky, in the place of Benjamin Howard, resigned, appeared, were qualified, and took their seats.

Mr. MUMFORD presented a petition of sundry merchants of the city of New York, stating the many and great inconveniences to which they will be subjected by the revival of the non-intercourse with Great Britain, in importing goods which have been ordered and partly paid for, and praying that Congress will "authorize the entry of goods imported from that country to such date as will relieve them from the embarrassments be-

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fore mentioned."—Referred to the Committee on Foreign Relations.

On motion of Mr. JOHNSON,

*Resolved*, That the Committee of Ways and Means be instructed to prepare and bring in a bill fixing the number and compensation of clerks in the several Departments of the Government of the United States.

Mr. MITCHELL presented a petition of the President and Directors of the Cayuga Manufacturing Company in the State of New York, praying the remission of the duties they have secured to be paid on the importation of twenty-five salt pans.—Referred to the Committee of Commerce and Manufactures.

Mr. LEWIS presented a petition of the pilots navigating the Chesapeake Bay and rivers falling into the same, praying to be authorized to collect pilotage on vessels coming through the said bay or rivers to the District of Columbia.—Referred to the Committee of Commerce and Manufactures.

#### APPORTIONMENT BILL.

The House resolved itself into a Committee of the Whole, on the bill to apportion the Representatives according to the third enumeration of the people of the United States.

The question recurring on filling the blank with the number of souls which should entitle to a Representative—

Mr. FISK remarked that the committee (of which he was chairman) who reported the bill, had not agreed on any precise number; but, consulting the opinion of others, rather than his own, he would move to fill the blank with a number not so large as he should wish. The precise amount of the population of the United States, by the present census, could not be ascertained, but a rational estimate might be made. Calculating the ratio of increase for the ten years, since 1800, at the same rate as ten years preceding that period, the present population may be estimated at about seven millions. At a ratio of one Representative for every 45,000, the number of Representatives would then be 155. If, however, that population should reach 7,500,000 souls, as many believed, the number of Representatives would amount to 166. If it should exceed 7,500,000 and reach 8,000,000, as some calculated it would, this number would give 177 Representatives.

The question was taken on filling the blank with the ratio of 45,000 souls, and lost.

For this ratio, 39; against it, 56.

Mr. W. ALSTON said, as no number but 45,000 had been mentioned, and the committee had expressed their disapprobation of that number, he felt inclined to propose a larger one, although he had been willing, in order to unite with others, to take the ratio proposed by Mr. FISK. If the ratio fell to less than 45,000 or 50,000, this body would become too numerous to transact business. If gentlemen would turn their attention to the increase of the ten years previous to 1800, they would be satisfied that, with a parallel in-

crease since that period, a less ratio than 45,000 would afford nearly 200 members. He said he felt convinced that a numerous body would not afford more talent than a smaller body. If the Congressional districts were larger, the chance of obtaining men of talents would be quite as great at least as in smaller districts. One advantage of large districts in the Southern States, he said, would be, to put an end to the mode of electioneering practised in some of them; it would then be impossible for the candidates to ride through them as they now did. Mr. A. said he was clearly of opinion that business could be done as well and as satisfactorily with 100 as with 200 members. He therefore moved to fill the blank in the bill with 50,000.

Mr. BOYD made some remarks in favor of a small ratio. From the terms of the Constitution, making 30,000 the minimum, he drew the inference that the illustrious framers of that instrument had considered 30,000 as the most proper ratio. He adverted, too, to the safety produced by having many counsellors—a small body might be led away to act rashly, by passion, which would not have the same operation on a larger body.

Mr. MACON said he was decidedly of opinion that the ratio ought to be fixed, before the result of the census was known. He had no objection to a moderate increase of the number of members, if they amounted to so many that one side of the House could not hear the other side speak, debate was at end, and the purposes of deliberative legislation defeated. He should have liked the bill better, he said, if it had declared that the House of Representatives should hereafter consist of a certain number of members, and had left the apportionment then to be made according to the population. On the subject of electioneering, he said, it became him at least to say that that portion of the people who sent him here, had not been concerned in it. Whatever might have been the practice elsewhere, so far as concerned his constituents, there had been no going about or haranguing. And, on the subject of electioneering, said he, wherever the people are free, there will be electioneering. It belongs to free Government. Possibly different parts of the country may differ as to the mode. In some, men go themselves about electioneering; in others, their friends do it for them. In some, newspaper publications help an election; in others, they destroy it. In some places, I have heard, the sacred pulpit is not free from it; in others, a divine would be destroyed that would attempt it. There was not more electioneering South, Mr. M. believed, than elsewhere; certain he was that candidates could not there spend the sums of money which he had heard of being spent elsewhere in an election. He concluded by saying he was in favor of a moderate increase of Representatives. He was not afraid that, from a multitude of counsellors, nothing would be done; it was quite as much to be feared from too few that they would act rashly.

Mr. SMILIE, urging the importance of this

question, the necessity of mature reflection, and his own doubts as to the proper ratio, moved that the Committee rise, report progress, and ask leave to sit again.

The Committee rose—53 to 49—and obtained leave to sit again.

### FOREIGN COINS.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, to suspend the second section of the act for regulating foreign coins.

The bill went through a Committee of the Whole, and was reported to the House. The question occurred, Shall the bill be read a third time?

The following section, from the act of February 9, 1793, is that proposed to be suspended:

"Sec. 2. *Provided always, and be it further enacted*, That, at the expiration of three years next ensuing the time when the coinage of gold and silver, agreeably to the act, entitled "An act establishing a Mint, and regulating the coins of the United States," shall commence at the Mint of the United States, (which time shall be announced by the proclamation of the President of the United States,) all foreign gold coins, and all foreign silver coins, except Spanish milled dollars and parts of such dollars, shall cease to be a legal tender, as aforesaid."

Mr. ROOR objected to the passage of the bill. By an act of April, 1806, the above section had been suspended for three years from that date, which period of suspension had long ago expired. Why, he asked, now make that a tender (not by tale, but by weight) which had not been so for nearly two years past? He said he certainly should not give his vote for what would subject our citizens to so much inconvenience. Was it to provide for coin in the banks, which could not otherwise be disposed of unless at a discount, or sold to be recoined? If foreign gold was made a legal tender, from the want of means of ascertaining its value, much perplexity would be produced. Every farmer or mechanic did not possess scales for weighing it, and, if they did, probably had not sufficient acquaintance with it to know to how much so many pennyweights and grains amounted. Besides, he said, it would be flattering to him, as a citizen, to see the emblems of his own country circulating among us in preference to those of a foreign Power.

Mr. MITCHELL said he was one of those who thought the bill of no great public moment, but he had rather it should pass than not. He stated the reason why this section had been heretofore suspended, namely: that the Mint had not, as had been expected, thrown into circulation a sufficient quantity of coin for the current exchange, the failure being produced first by a want of skill, perhaps, in the coiners, and, subsequently, by a want of bullion to work upon. Besides, when our dollars were coined, it was known to every one that there was a prodigious exportation to Great Britain and the East Indies; and, when it arrived in Great Britain, it was well known that, as from the most scrupulous honesty, the United States' dollars contained less alloy than the silver

coins of other nations, they were melted down by the silversmiths for plate and for other purposes. If it was expedient to allow foreign coins to circulate, as they now do, by common consent; for the purpose of avoiding litigation, he was willing to make them a legal tender. The law had already sufficiently guarded, by various provisions, which Mr. R. read, against the circulation of spurious, or any other than good coin. With such guards of its purity, the alarm of his colleague was quite groundless. The coins were now circulating *de facto*; the bill proposed merely, when good, to establish a legality of tender in relation to them.

Mr. SOUTHARD was in favor of the bill. He viewed the decision on the bill as hanging on that of a question of policy; whether it was expedient to permit the circulation of any other coin than American and Spanish milled dollars? He thought a legal circulation of gold coin would be more advantageous than otherwise, and therefore he was in favor of the bill.

Mr. BACON said that, on the general principle, he could not see why foreign coin should be made a legal tender, because banks could collect and have it recoined. But, at the present moment, under the particular circumstances growing out of the non-renewal of the charter of the Bank of the United States, which he understood was winding up its affairs, and had, of course, heavy demands upon the State banks; and, under the pressure produced by this demand, or an increased pressure created by the bank to serve their own purposes, if foreign coin were not made a legal tender, the shock upon the banks, and through them upon the community, would be very severe. Mr. B. said he was not, in the present crisis of affairs, inclined to give to the Bank of the United States, a facility to augment the pressure which really existed. These considerations might not be entitled to weight, but to allow time for further consideration of them, he moved that the bill lie upon the table till to-morrow.

Mr. BURWELL said, in his opinion, the gentleman who was last up, had taken a correct view of the subject. As far as he had any information, the Bank of the United States pressed very much upon the State banks, refusing to receive gold coin in payment for their notes. Whether the law passed or not would have no material effect upon the country at large. Foreign gold coin was already circulating, and every one, who had a debt due to him, was willing to close it by receiving that coin in payment. But, Mr. B. said, he did believe that the crisis alluded to was one which deserved the consideration of the House; and he believed, by passing such a law, that they would enable the State banks to stand the storm gathering over them.

His impression was that the Bank of the United States, to obtain the renewal of the charter, would make every effort to enlist in their views all the moneyed institutions of the country; and if any one showed a disposition to oppose the renewal of their charter, that it would receive no quarter from the Bank of the United States.

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The quantity of foreign gold coin in the country could not be considerable, but might be an object to the State banks. To those gentlemen who wished to sustain the State banks, the object of this bill must be very acceptable. He called the attention of the House to a paragraph he had seen in the newspapers, stating that, from the single port of Philadelphia, in the last year, there had been exported between two and three millions of silver dollars; and inferred thence the probable scarcity of United States' coins. Mr. B. was in favor of the bill's lying for consideration.

Mr. SEYBERT said that, for the information of the House, he would state that the case which had been supposed as likely to exist, had really occurred. The Bank of the United States had pressed upon the State banks, refusing to receive in payment foreign gold coin, which had been tendered, unless at a reduced value. He was, therefore, of opinion that the bill ought to pass.

The bill was ordered to lie on the table—yeas 50, nays 43.

FRIDAY, December 14.

Another new member, to wit: from Massachusetts, ABIAH BIGELOW, elected to supply the vacancy occasioned by the resignation of William Stedman, appeared, was qualified, and took his seat.

Mr. SOUTHARD, from the Committee of Revision and Unfinished Business, made a report in part; which was read, and ordered to lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred the petitions of Isaac Clason, and Archibald McCall, presented a bill authorizing the issuing of debentures in certain cases; which was read twice, and committed to a Committee of the Whole on Wednesday next.

On motion of Mr. GOLD,

*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for ascertaining and settling the controverted boundary of the public land, at West Point, in the State of New York; and that they have leave to report by bill, or otherwise.

Mr. GOLD, Mr. GRAY, Mr. WINN, Mr. ALLEN, and Mr. FRANKLIN, were appointed a committee, pursuant to the said resolution.

On motion of Mr. P. B. PORTER,

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of removing the office of the Collector of customs for the District of Buffalo, in the State of New York, from the village of Buffalo, to Black Rock.

On motion of Mr. NEWTON, the House resumed the consideration of the bill to suspend the second section of the act regulating foreign coins.

Mr. QUINCY moved a recommitment of the bill to a select committee, on the ground that it would, he apprehended, as it at present stood, go to admit the gold coins of foreign Powers to circulate at their nominal, instead of their real value; by which means certain coins would become a

tender at their nominal value, which were not worth so much by four cents in the dollar. To the principle of the bill, he said, there could be no objection; and he only wished that a committee should be appointed to examine the operation of the bill and ascertain whether it would be as he suspected or not.

After a few observations from Messrs. MITCHELL and BACON on the subject, the bill was referred to a committee of five.

Mr. QUINCY, Mr. MITCHELL, Mr. NEWTON, Mr. SEYBERT, and Mr. PITKIN, were appointed the said committee.

Mr. SHEFFEY presented the memorial of Simeon Knight, stating that he, whilst acting as a paymaster in the Army of the United States, had, under the authority of the late Secretary of War, General Henry Dearborn, paid to Brigadier General James Wilkinson the sum of \$1,450, being the amount of extra rations allowed him as commander of a separate post whilst at New Orleans; but that on presenting his vouchers for settlement at the War Office, payment of the same was withheld; and praying relief.—Referred to the Committee of Claims.

Mr. VAN HORN presented a memorial from the first and second chambers of the City Council of Washington, praying for certain alterations in their charter.—Referred to the Committee on the District of Columbia.

#### APPORTIONMENT BILL.

The House resolved itself into a Committee of the Whole, 51 to 44, on the bill for apportioning the Representatives according to the third enumeration of the people of the United States.

The question pending when the Committee rose yesterday was on filling the blank for the ratio of apportionment with 50,000.

This question was lost, yeas 26.

The question having been taken on filling the blank for the number to entitle to one Representative with 43,000, and lost—

Mr. FISK said it would be gratifying to him if any member would state his reasons in favor of a small number. They were now, he said, legislating on a great question; one as materially affecting the rights of the people as any which would come before them during the present session. He had been disappointed in the results of several questions which had been decided in Committee; for, from the best calculation he could make from the last returns, the ratio of one for every forty thousand would yield an aggregate number of upward of one hundred and eighty members; more than could be accommodated in this room, a larger number than was admissible under a rule, mentioned yesterday, viz: that more should not be admitted than could hear each other speak. If we increase the number according to the standard which seems to be considered proper by some, to what extent will it not carry us? If we once establish the rule that the Representatives shall be so apportioned as that no State shall be deprived of a Representative, we shall, for the next ten years, have at

least two hundred and twenty; and, for the ten years following, perhaps three hundred and fifty. Did any gentleman wish such extension of their number? How disproportionate would it be to the other branch of the Legislature, from which it was already remarked that every measure of interest, every measure called energetic, originated. Numbers were not important in the National Legislature, the members of which were deputed to transact national, not local business; not to guard personal rights or property, but the interest of the nation. And were not an hundred or an hundred and fifty members, Mr. F. asked, as competent to transact business as double that number? He had, on this question, no views but such as resulted from a desire to fix on the most proper ratio. Independent of the representation of any of the Territories, if erected into States, if the ratio of forty thousand were fixed on, it would, at the lowest calculation, give one hundred and eighty-seven members; and, if the present ratio of thirty-three thousand were continued, there would be two hundred and twenty or two hundred and thirty members in the thirteenth Congress.

Mr. BOYD said he felt himself called upon to make some remarks, though he did not expect anything he could say would make any great impression. The argument of the incapacity of the House to contain a large number of members ought, he said, to have no effect. The room was built for their accommodation, and if it should prove, hereafter, too small, could be changed or altered. The Constitution, he apprehended, had intimated that thirty thousand was the proper ratio, and that so it ought to remain, until the people saw fit to amend the Constitution. He denied the right of Congress, by any act of theirs, to take away from a State one or more of the Representatives which it now has. He believed it would be contrary to the Constitution.

Mr. GOLD considered this bill as a very important one, as fixing the construction to be put on a provision of the Constitution. While, on the one hand, it might be admitted that business would be in general better done by a small number of Representatives, yet, on the other hand, there were important considerations in favor of a large number, as gentlemen would find by referring to the discussions at the period of the adoption of the Constitution. It was then feared by some that the representation of so great a people would be too small. If gentlemen would refer to a number of papers, drawn up by an association of gentlemen, at that time, and published under the title of "The Federalist," they would find various arguments used to induce the Legislature to make the representation full; so that, at that period, no apprehensions had existed of the Representatives becoming too numerous. On the contrary, it was supposed that the public confidence would be impaired by having a small delegation. In adverting to the relaxed state of the Union, and how much it was exposed to be shook by attempts to weaken it, it was supposed that public confidence would be inspired, and

general satisfaction given, by the selection of a large number. It was true, Mr. G. said, that representation might swell so much as to operate to the exclusion of legislation; but the House of Representatives would not, even if the present ratio were retained, be so numerous as many other legislative bodies in the Union. He had no objection to increasing the numbers of the House of Representatives to such an amount as would permit public business to be done with facility. Gentlemen might differ as to the precise ratio; but, while they argued in favor of a small number, from the inconvenience of a large delegation, he hoped they would conceive with him that well-grounded apprehensions might be entertained of the evils which would result from its being too small.

Mr. PORTER expressed his belief that Mr. FISK had miscalculated the amount of the present population of the United States. He was also against so large a ratio as forty thousand, as, in all probability, Rhode Island would then have a fraction of thirty-nine thousand. He said, he could not conceive the necessity of acting on the subject at this time, or why gentlemen should be afraid of knowing what was the actual population of each State. He was himself in favor of the old ratio; for that which was proposed would probably deprive Rhode Island of one of her Representatives, and a State might as well be unrepresented as to have but one Delegate. It was impossible for one Representative to be omnipresent, and the interests of the State might sometimes suffer from his absence. The State of Delaware, well represented as she was, having but one Representative in Congress, was unrepresented half her time. The ratio of forty thousand, he apprehended, would not add one to the present number of the House of Representatives.

Mr. MITCHILL said he was in favor of the largest number proposed; and, not having been able to obtain that, he should vote for the largest on which a majority could agree. In the district represented by his colleague (Mr. MUMFORD) and himself, there were probably one hundred and twenty thousand souls, and yet he had not heard any murmuring that they were not adequately represented. Mr. M. said he was guided in his decision on this subject by considerations of various kinds; one of which was, the increased expense of Government from an enlarged representation. If gentlemen served, *honoris gratia*, as in the British Government, he said he should not have the same objection. There was there no great expense, and but a comparatively small attendance, the number necessary to form a quorum being much smaller. But, when it was taken into consideration that every Representative here drew a quantum of the public money, it became a serious question, on economical considerations, whether they ought to make so large a draught on the public funds as an increased representation would require. In a Government watching its treasury with so much care, and having but two modes of procuring revenue—from commerce and the public lands—they ought to be

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cautious how they consumed the finances of the country.

Another consideration in favor of a large ratio, Mr. M. said, was this: that this body was now, in his judgment, quite as numerous as was consistent with a distinct performance of the public business. He meant no reflection on the House when he remarked, that it now required all the skill of the Speaker to keep order, and as much exertion of the lungs as possible for a speaker to make himself heard. If this assembly became more multitudinous, he could not see how it was possible, under all the restrictions that could be devised, that public business could be performed. He believed an assembly of persons, however individually respectable and dignified, when they got together, under the influence of warm feelings, or party prejudices and excitements, would exhibit such a scene of disorder as to reflect no credit on themselves. A restriction to the number of the members composing the House of Representatives, would conduce extremely to the dignity of that body, to the dispatch of business, and to the comfort of their constituents.

Congress, Mr. M. said, did not convene here to legislate on all the subjects of the rights of citizens. Our Government is, he contended, a peculiar piece of machinery, an *imperium in imperio*. The Representatives to Congress left behind them Legislatures, whose province it was to take care of the personal rights and the rights of property of our citizens. With these concerns, said Mr. M., we have nothing to do. We meet here under a Constitution expressly framed and devised for legislating on select subjects, which, on account of the generality of their nature, could not be confided to the several States. When, then, we consider the narrow grounds we have to legislate on, that our great privileges are left at home, we shall be convinced that there is no occasion that this body should be as numerous as if we were concerned in the great questions of property and right, which are secured by the Constitution, under the guardianship of the State Legislatures, and of the courts for the furthering of justice. If I were to quote a precedent of a Legislature for commanding influence, and for wisdom and sagacity in carrying us through an arduous contest whilst struggling for our liberties, I should quote the Old Congress—limited in number, but remarkable for the honesty and fidelity, with which they performed what a more numerous body could not have accomplished. And, if I wished to cite an instance of the evils to be dreaded from a numerous assembly, I should quote the National Convention of France, where representatives, assembling in great number, exhibited such a spectacle of disorder as I hope we shall never, by a multitude of counsellors, run the risk of imitating. The great object is, that the people should be satisfied with their representation in this House, and that they should be perfectly informed of the character as to honesty, probity, and intelligence, which their Representative possesses. Now, sir, it is my opinion that if, from every forty thousand souls, the peo-

ple select such a Representative as from his property is not likely to be swerved from his duty by the hope of office, if they are secure of his integrity, and satisfied of his capacity to perform the functions delegated to him, they will be as well satisfied that forty thousand souls should be represented by one, as that every thirty thousand should be entitled to a Representative. It is not in proportion to the number of legislators that advantages accrue to a nation, but in proportion to the weight of character of such persons. And in free Governments, predicated on such principles as ours, it is to be presumed that the people will choose such persons; and for this reason, that, in considering the theory of our Constitution, we must first suppose the electors are intelligent, and, in the next place, that they are virtuous. If these be not two pillars on which the Constitution rests, in its true theory, I know not what that Constitution is.

Under the impressions which he entertained on this subject, Mr. M. hoped, before the question was taken on the number forty thousand, that gentlemen would reflect on the serious consequences of rejecting this number and taking a smaller. Under the conviction that a representation on the ratio of one for every forty thousand would be entitled to the full confidence of the people, and under the serious apprehension that from an increased representation great detriment would result to the public business, he felt himself compelled to vote for the number now proposed.

The question on forty thousand was taken, and carried—yeas 78. The Committee of the Whole rose and reported the bill, and the question occurred of concurring with the report of the Committee.

Mr. PITKIN said that he had not expected that a bill of so much importance would have progressed so far, and gone through the Committee of the Whole in so rapid a manner as this had. What, he asked of the House, was settled by the passage of this bill? Nothing was, or could be settled by the present Congress, unless the returns were made from the different States of the number of inhabitants in each State, before the bill became a law; for Congress alone could designate and specify the number of Representatives which each State should send. The laws heretofore passed, designating the number of Representatives, had, at the same time, declared the ratio, and specified the number of Representatives of each State. Congress alone were competent to decide on the legality of the returns, and on their act alone could the State Legislatures proceed. Mr. P. presumed no member would say that it should be left to the Executive, or any Department of the Government, to say how many Representatives each State should send to Congress. The present Congress might fix the ratio as they pleased, but it would not be obligatory on the next Congress, who could, and undoubtedly would, modify or reverse it as they should think proper. This bill, was, therefore, premature, and, in fact, would not settle the prin-

ciple which it proposed to decide. He was, therefore, on this ground, opposed to the passage of this bill; and he believed the inconvenience of deciding it now would be greater than if the business were to rest until after the returns were made.

With respect to the number by which the people of the United States should be represented for the ensuing ten years, Mr. P. said, he would agree that there was a considerable diversity of opinion, not only in this House, but in the nation. But he had been not a little astonished to hear the arguments of some gentlemen, evidently inconsistent with the principles of the Constitution. This is a Government of the people, and, as population increases, representation should also increase, in a certain proportion. This, Mr. P. considered one of the first maxims of Government. Gentlemen had asked whether the most important laws had not generally originated in the other branch of the Legislature, and had thence drawn the inference that a small number was best. If this argument proved anything, what was it? Why, as *energy* was the great principle, and as the Government of Bonaparte was, probably, the most energetic in the world, that his Government was, therefore, better than ours. Our Government, said Mr. P., is not a Government (in this branch especially) of energy. It is a Government of confidence; and when our population is double its present amount, the people will not be satisfied with the same number of Representatives as is now fixed. I was, therefore, sir, not a little surprised to see so many gentlemen vote for a ratio of fifty thousand, when, by fixing on that ratio, even our present number would be lessened. I ask whether this accords with the principles of republican Government? I apprehend not, sir. It is very well known, that the Constitution, when adopted, was a matter of compromise among the States; and that, in consequence of this compromise, the States, which were before in some measure independent of each other, sacrificed a part of their rights, agreeing to be represented in general Congress, but in a certain way. I do apprehend, sir, that, as respects fixing the ratio, it will be, at present, most for the interest of the United States, and our best policy, so to arrange it as that no State of the Union should be deprived of any part of its representation on this floor. This principle, at some future period, perhaps, will not be the one which will, or ought to govern this House; because inequalities are constantly arising, and new States are forming to the West and South, which, in course of time, would increase the representation in this House in such a degree as, at some distant day, to deprive some of the old thirteen States of a representation on this floor. But, whenever the time comes when the old States will be placed, in some measure, in a degraded situation, what will be their feelings? It will be a fruitful cause of jealousy, and will add another to the sources which already too much prevail.

I think, therefore, that gentlemen, when they reflect upon it, will be of opinion that the present

is the most correct rule, that they will do nothing which shall tend to divide the States into sections of North, East, West, or South. I do not like these distinctions at all; they will come soon enough without our seeking them; and I fear they will come too soon. If the ratio be now fixed by which some States will be deprived of a part of their present representation, it will tend to excite jealousies which it will be difficult to allay. These States will feel themselves degraded; right or wrong, they will suppose that their influence is diminishing in the councils of the nation. I apprehend that, by fixing the ratio at forty thousand, this will be the case with three or four States. Unless there be some imperious necessity for this course, I ask gentlemen, whether it be wise or politic to pursue it? The great family of the nation was originally composed of thirteen branches, all of whom contributed stock to it. When the time comes when these branches see their members on this floor lopped off, very unpleasant feelings will be excited. The ratio of forty thousand, depriving some States of a part of their present representation, will probably leave them large fractions, which must remain for ten years unrepresented. I am willing to fix on such a ratio as shall place every State at least upon its present footing in this House. I apprehend, when the returns are received, that the ratio of thirty-seven or thirty-eight thousand will attain this object. In ten years more it may be politic to fix on such a ratio as shall take from some States one or more Representatives; but at that time such a course will be more readily acquiesced in than now.

As to the expense of an additional representation, Mr. P. said it ought not to be thought of a single moment. Whilst we have a representative Government, expense will attend it. In the State Legislatures, some of whose branches contain from two to five hundred members, no inconvenience of this kind had been found which had induced them to change the representation. Neither, Mr. P. said, could he consent to the argument that the matters which came before Congress were of such small importance compared with those which came before the State Legislatures, that therefore the number of Representatives ought to be diminished. The acts of Congress were vastly more important; they went to effect the liberty and property of every man in the nation, and to an infinite extent almost. That argument therefore had no weight.

Mr. P. concluded by hoping that the House would fix on some ratio between thirty-three and forty thousand, keeping in view State feelings as well as the principle that representation should gradually increase with population.

Mr. QUINCY said that the agitation of this question at the present moment had taken him as much by surprise as it had the gentleman from Connecticut. He had no idea that a question so pregnant with interest would be hurried through the House in this way. His object in rising was to obtain a postponement of the question till some time in the next week, for the consideration of a



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point, which to his mind was important. He objected to the bill on the principle that it would be a violation of the Constitution to pass it. It went to establish a ratio which, in its effect, must be abortive. The Constitution says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and, excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative."

The Constitution then had specifically made it the duty of the House to apportion the representation of each State according to its respective numbers. Was it not, he asked, infinitely absurd and a direct violation of the Constitution, to apportion the representation before these numbers were known? When the Constitution had made it a duty to do a thing according to a standard prescribed, would they do that thing before that standard could be in possession of the House? Suppose that in 1791, before the numbers of the States were known, Congress had undertaken to fix the ratio of representation—would not the Hall have rung with the exclamations that it was a violation of the Constitution? And how would this bill, Mr. Q. asked, less violate the Constitution than such an act would have done? For, as to the numbers to be ascertained by the present census, Congress were as little competent to decide as they were before any census was taken. This was the ground on which he objected to the bill as unconstitutional, and which he wished an opportunity thoroughly to examine. He therefore moved that the bill lie on the table.

Mr. FISK said, it had been deemed desirable to fix the ratio before the numbers of each State were ascertained, so as to avoid the difficulty which would arise from the fractions, and to afford an accommodation to the State Legislatures, which would be in session before the next meeting of Congress. It would indeed be necessary to pass a law declaring the number of Representatives to be sent by each State; but that would be a mere matter of form, if the ratio were previously ascertained by law.

Mr. F. treated the idea of this bill's being unconstitutional, as altogether unwarranted by fact; for it did not fix the apportionment, but merely the ratio, according to which the Representatives should be apportioned among the States when their respective numbers were known.

Mr. F. observed that it would seem that Congress had heretofore entertained a livelier idea of the importance of a numerous representation than the people, for, as far as the latter had acted, they had shown themselves averse to a large delegation. Mr. F. read the following paragraph:

"ART. 1. After the first enumeration required by

the first article of the Constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress that there shall be not less than one hundred Representatives, or less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall be not less than two hundred Representatives, nor more than one Representative for every fifty thousand persons."

This he said was one of the two articles of the Constitution which had not been ratified. What was the inference but that the people were opposed to an enlarged representation?

It has been argued, as an objection to the bill, that the next Congress would not be bound by it, as they might repeal or amend it. Did not this argument apply with equal force against all legislation? It might with equal propriety be said that the apportionment act of 1802 was not obligatory on the several Congresses which succeeded it, because it might have been repealed. But as they did not see fit to repeal it, neither did he suppose the next Congress would see fit to repeal this, if passed into a law.

Mr. PIRKIN said he was only very sorry that the gentleman from New York did not see the difference between this and ordinary laws, which take effect immediately after their passage; whilst this law could have no effect until 1813, and was a dead letter until another law was passed to give it life. No State Legislature could with safety proceed to district a State according to the ratio prescribed by this bill, because it could not take effect till the next session of Congress. Gentlemen would find that the apportionment laws heretofore enacted had not been passed until the session preceding the 4th of March on which they were to have effect; and he could see no possible reason for changing the usual course.

Mr. WRIGHT was in favor of postponing, and decidedly opposed to the bill. He was against it, because it proposed to bestow on others a power residing in Congress. If this law were to pass, could the Secretary of State be authorized to declare the number of Representatives to which each State was entitled? Could Congress transfer to him legislative power, and authorize him to declare of how many members this body should consist? He presumed not. The power was vested in Congress, and not in the Secretary of State. But gentlemen were desirous now to fix the number of souls which should entitle to a Representative—and why? That the State Legislatures, understanding the number of Representatives to which they are entitled from knowing the census, may proceed to district their States, in anticipation of the law to be passed by Congress. But their acts would not be conclusive, because Congress might change the ratio, and they would have to undo all they had done. Mr. W. hoped that this business would be postponed, until, as heretofore, Congress should be possessed of all the information of which the nature of the case would admit. When the cen-

sus was received from the President of the United States they would be much better able to act than now. In this case, Mr. W. said he held himself imperiously bound to follow the steps of his predecessors. He held it a correct maxim in general, that the practice of to-day should be the precedent for to-morrow. Why need they decide this business immediately? There were yet some months in the session, and time enough to reflect on the subject. Why legislate by halves? If this law were passed, Mr. W. asked, was it perfect? Did it declare to how many Representatives each State should be entitled? He said he could refer to cases in which errors had occurred in the census; and it was in the power of the House alone to correct any errors which might have escaped the Secretary of State. In Maryland a mistake had occurred in the last enumeration, of thirty or forty thousand souls. He believed that a great portion of the district comprising Cecil and Hartford counties had been omitted; and he recollected perfectly well that the error was corrected; and, by turning his eye to the proceedings of that day, he could see other errors. He wished, when the House acted, that they should do it understandingly, and with all the evidence before them of which the case was susceptible. He hoped the bill would be postponed until the returns of the census were received in the usual mode. He had no object in view but to exercise understandingly the functions delegated to Congress. Had the apportionment, he asked, ever before been fixed before the census was known? No; and he demanded of honorable gentlemen some reason why a new course should now be adopted. As to the idea of a conflict among the States for the ratio which should best suit their respective numbers, he should feel no difficulty on that score; he should be strongly inclined to favor the small States. He should be strongly disposed to give to Delaware and Rhode Island as large a representation as possible. The large States had so preponderating an influence in relation to them, that their rights ought to be much respected indeed.

Mr. W. said he was in favor of postponement, because he would not delegate to the Secretary of State, or to any other authority, the powers belonging to Congress; and because he was unwilling to do now what Congress thought it their duty not to do heretofore.

Mr. W. ALSTON opposed the postponement. He was as loth to depart from old practices as the gentleman from Maryland, if those practices were found to be good. But when they proved inconvenient or useless, it was certainly right to depart from them. What, then, had experience taught them on this subject? Why, that if the ratio was not fixed before the census was known, great inconvenience would result to many States. Congress, at their last session, being apprized of the circumstance, had in their law directed that complete returns should be made to the Secretary of State by the first of March next. It was well known that, if they did not fix the ratio before the first of March, they would not be able

to fix it after; when the ratio was fixed, however, the apportionment would not be the work of an hour. If it became necessary to deprive a State of a Representative, he asked whether it would not be more palatable that it should be done now than after the census was known? The State deprived of a Representative could not complain; the ratio would affect it in the same proportion, whether it gave or took a member. That argument, therefore, was entitled to no consideration. Mr. A. expressed his surprise that the small States appeared to be opposed to a large ratio; for, if it would be an advantage on any side, it would be decidedly in favor of the small States. He thought, indeed, that the Representatives of the large States, in voting for a large ratio, had shown great magnanimity and liberality.

Mr. WRIGHT said the gentleman's intentions to the small States were benevolent indeed, but he was a little mistaken as to the comparative advantages to the small States of a large or small ratio. Virginia, in losing one Representative, would lose one-twentieth of her weight in this House. Rhode Island, under the same circumstances, would lose one-half. The sacrifice of a member would be unimportant to a large State; but to a small one, it would be important indeed. There were the strongest reasons on earth why they should wait patiently and see the returns before they acted, and thus have an opportunity to do the small States that justice to which they are entitled.

Mr. GOLDSBOROUGH was in favor of postponement, and was sorry to see the bill attempted to be hurried through. Gentlemen had not maturely considered the subject, and, on reflection, would be convinced that their votes were, if not a direct, at least an indirect, violation of the Constitution. This was premature legislation on what properly belonged to the next Congress, and which, act on it as they might, would unquestionably come before Congress at their next session. If it should be found that the ratio agreed on operated unfavorably on the numbers of any State or States, they would be anxious for a reconsideration of the subject. It would be immaterial whether the subject should be brought up by a bill *de novo*, or by a bill to repeal this, if it should indeed become a law; the ardor of discussion would be the same in either case. If this be admitted, the only argument in favor of the bill is done away. The Constitution having directed that apportionment should be made accordingly to the whole census, Mr. G. said that he could not see how Congress could fix it before they knew what that census was. He did not know that every gentleman on the floor was ignorant of any of the returns; some might be already apprized of the returns of their own State. Each one made estimates no doubt, in his own mind, as to the probable result; and, for himself, Mr. G. said he had been endeavoring to make some sort of a calculation; and if the bill passed, and the ratio should prove unfavorable to the numbers of the State which he had the honor to rep-

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resent, he should feel himself bound to move a repeal of the law; and they would have the whole discussion over again. There was another reason, Mr. G. said, which had some weight on his mind: that it would be best to adopt such a ratio, after a knowledge of the respective numbers, as should leave each State the smallest possible surplus. Suppose several States were, after passing this bill, to be found to have a fraction of 35,000. He believed gentlemen would agree that it would not be proper to leave them unrepresented. The idea of a small State deriving advantage from a large ratio was entirely erroneous. For instance, by a large ratio, Delaware might keep only her present Representative, while, by a small ratio, she might perhaps have two. Upon the whole, Mr. G. said it would be best to leave the subject to the next Congress, who alone could act on it correctly, and whose act alone could guide the States in their proceedings.

Mr. TALLMADGE thought this was premature legislating and wasting the time of the House on this topic. He referred to the course pursued by former Congresses, which was quite different from that now proposed. There could be no other rational way of construing the Constitution but by saying that the enumeration must be made, and the census be before the House, before they determined what the ratio should be. All the benefit which could be derived from passing the present bill would be that the States, perceiving what the ratio was, might proceed to lay out the States into districts. But, if this law would be repealable, and all that was done might be undone, what possible advantage would there be in passing the law? This law would not only be useless, but really worse than nothing. He was, therefore, most decidedly in favor of postponement till Monday; and he thought it was already very fully ascertained, that all the members of the House had not given the subject that important consideration which it merited. In the Committee of the Whole, it had seemed as if it was going through almost with the rapidity of an unanimous vote. By this time, he was sure, however, that it had at least become a question whether this law was proper to pass at all, and the opinions of many on the subject had certainly changed as to the ratio. He, therefore, hoped the bill would be postponed till Monday, and then that it would be further postponed indefinitely.

The question on the bill's lying on the table was carried—65 to 43.

And on motion, the House adjourned until Monday.

MONDAY, December 17.

Another member, to wit: from New York, JOHN NICHOLSON, appeared, and took his seat in the House.

Mr. POYDRAS presented a petition of the Legislature of the Territory of Orleans, praying to have the said Territory erected into an independent State, to enjoy the same privileges and im-

munities enjoyed by the other States of the Union.—Referred to Mr. MACON, Mr. CLAY, Mr. HEISTER, Mr. NICHOLSON, Mr. BARRY, Mr. BIGELOW, and Mr. WINN; and that they have leave to report by bill, or otherwise.

The SPEAKER laid before the House two reports of the Secretary of the Navy, one of moneys transferred during the last recess of Congress, from certain branches of expenditure in the Navy Department to other branches of expenditure in the same Department; the other, a view of the state and disposition at this time of the Navy of the United States; which were read, and referred to the Committee on the Naval Establishment.

The SPEAKER also laid before the House the annual report of the Secretary of the Treasury, of the amount of duties and drawbacks on goods imported into and exported from the United States during the years 1807, 1808, 1809.—Ordered to lie on the table.

Mr. EPPES, from the Committee of Ways and Means, presented a bill to fix the compensation of the additional Assistant Postmaster General; which was read twice and committed to a Committee of the Whole to-morrow.

On motion of Mr. MORROW,

*Resolved*, That the Committee on the Public Lands be directed to consider and report on the expediency of making provision, by law, for laying out and making the two roads provided for by a treaty concluded at Brownstown, on the twenty-fifth day of November, 1808, and for the disposal of the public lands, the Indian title to which was extinguished by the said treaty; and that the committee have leave to report by bill, or otherwise.

Mr. BASSETT said, that it would be recollected that at the last session of Congress a report had been made by the Navy Committee, on the subject of a navy hospital, which report had not been acted upon. This subject, Mr. B. said, he did then and now believe to be one of great importance to the United States, and which ought to claim the serious attention of Congress. To bring it again before them, he moved to refer the papers relating to the subject to the Committee on the Naval Establishment. Agreed to.

#### YAZOO SETTLERS.

Mr. TROUP said, it would be recollected that, by the law of 1807, the President was authorized to remove by force, from the public lands, persons claiming under any other titles than such as were derived from the United States. He had no doubt but this law had been duly executed; but he was desirous of obtaining all the information he could acquire on this subject, and therefore moved a resolution to the following effect:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House any information he may have touching any settlement, contrary to law, on the public lands in the Mississippi Territory; by whom, at what periods and extent, and what measures had been taken to remove such intruders on the public lands.

Mr. RHEA wished to see the resolution more

general in its application, and therefore moved to strike upon the words "in the Mississippi Territory." He could not see any reason why this Territory alone should be included.

Mr. McKee could not see the propriety of calling upon the Secretary of the Treasury for the names, &c., of all unauthorized settlers on the public lands; for it was well understood that some settlements had been made on the public lands in Louisiana Territory, perhaps, which did not require the interposition of the Government—a proposition being now pending before the Committee of Public Lands for opening an office for the sale of the lands thus settled.

Mr. Troup said, his object was to obtain information as to certain lands in the Mississippi Territory; the title to which the United States had, on the one hand, declared to be vested in them, and the Supreme Court, on the other hand, had declared not to be in the United States, but in those persons claiming under the Yazoo speculation. This decision must either be acquiesced in or resisted by the United States. If acquiesced in, it must be in one of two ways. The United States must either permit the Supreme Court to execute its judgment in the ordinary course, or must permit quiet possession to be taken by the claimants. Whether they acquiesced in one way or the other, two distinct great rights were affected: first, the great interest of the whole people of the United States, claiming equal and common proprietorship of the soil; and, second, the great interest of the people of Georgia, to whom the United States had agreed to pay \$1,250,000, out of the proceeds of the sales of these lands. If the decision of the Supreme Court of the United States was acquiesced in, the State of Georgia would be thus defrauded both of her land and money. But if the Government of the United States would not submit to this decision, but resist it to the last extremity, what course could be taken but to employ the whole military force of the United States to eject all persons not claiming under the authority of the United States? If that description of persons claiming the territory, in whose behalf a decision was lately made, taking forcible possession, should obtain such a footing as to be able to oppose to the authority of the United States a considerable force, there would perhaps be no alternative but for the United States to remove them by an exertion of its military power, or tamely to acquiesce in the lawless aggression. It was from these considerations that he was desirous to have information on the subject of the late settlements there.

Mr. Rhea was of opinion that the decision of the Supreme Court, and the questions arising from it, might have been left on their own bottom for the present; and assigned several reasons why he thought general information was desirable on this subject.

Mr. Rhea's motion to strike out the words, "in the Mississippi Territory," was negative—50 to 45, and the resolution then passed without opposition.

#### APPORTIONMENT BILL.

The House resumed the consideration of the bill for the apportionment of Representatives among the several States, according to the third enumeration.

The question pending was on concurrence with Committee of the Whole, in filling the blank with "40,000."

Mr. STURGES rose and said before he should sit down he intended to make a motion, which would supersede the one before the House. He agreed with several gentlemen who preceded him, that the subject now under consideration, was of the most serious importance to the United States. He regretted, that there had heretofore appeared a disinclination to deliberate upon it in proportion to its importance. He thought there had been a partial view in one respect, taken of this subject, which, if extended, might be useful in their decision. He considered it as almost a self-evident proposition that by establishing a large ratio, the large States would be gainers, at the expense of the small ones. He had prepared a statement, as to the apparent relative interest of the different States, and their fractions at the census in 1800, which, although not perfectly accurate, yet was sufficiently so for his purpose. Virginia had a fraction of about 16,000, North Carolina about 29,000. Pennsylvania, he understood, had a small one. Those of Massachusetts and New York he had not ascertained. The States he had mentioned may be considered as the large States. Two of them, New York and Pennsylvania, are not only large, but, owing to peculiarly favorable circumstances, have and will continue to increase in their population. Whether they are all progressing rapidly in their population or not, they are, so far as respects a preponderance in our councils, interested in fixing a large ratio. The States of Kentucky, Tennessee, and Ohio, although small at present, yet, owing to a variety of favorable circumstances, such as the quality of their soil, their geographical situation, and other encouragements to emigrations, must for fifty or one hundred years rapidly increase in population; they are also, therefore, interested in a large ratio. But look at some of the small States, which have been, and will continue to be, nearly stationary. Georgia at the last census, had a fraction of about 6,000, South Carolina 23,000, Delaware 31,000, New Jersey 9,000, Connecticut 20,000, Rhode Island 9,000. If the last States mentioned have not increased much in their population, as is generally supposed, the probability is, if the ratio now proposed, viz: 40,000, is agreed to, that each of them must lose one or more of their Representatives. In looking at the justice of such a ratio, compare, for instance, the State of Delaware with that of Virginia. The former, as she had before, will now have a fraction of 31,000. Supposing Virginia has the same, then the consequence will be, that nearly half of the population of Delaware will be unrepresented, and only a 22d part of that of Virginia. And here he said he would notice a statement or argument of a gentleman (Mr. W.

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ALSTON,) from North Carolina, the other day, who said a large ratio was in favor of the small States, and against the large ones; for, said he, if Delaware have a fraction of 39 000, and Virginia have the same, the former State will have half of their population unrepresented, and the latter State only a 22d part; therefore a large ratio is in favor of the small States. He thought it unnecessary to make any comment on this reasoning, and therefore would leave it.

Mr. S. observed, that he had said the apparent interest of the large States might be for a large ratio, but he would now address himself to a sense of the real interest of those gentlemen who represented the large States. He said it was in human nature, (and from that only could we reason) "when men feel power, they forget right." Was it to be expected, that the large States on this floor, having the power to control the small ones, will not be tempted to sacrifice their interests? What will be the consequence? Those whose rights are not regarded will soon become uneasy; jealousies will arise; the harmony of the members of this Family will be endangered; the perpetuity of this Union will be hazarded. He therefore, again appealed to the real sense which gentlemen felt respecting their true interest. He observed, that it had been said, the small States have a security from their equal representation in the Senate. He believed experience had already proved, and would continue hereafter to confirm the opinion, that very little security is to be expected from that circumstance. It afforded the small States very little consolation. From the construction of our Government, it will ever be the case, that the influence of the large States in this House will, upon great national and interesting questions, operate upon the deliberations of the Senate. If the large States shall happen to be united in their views as to the Chief Magistrate, the electoral votes which are to be given will always have the effect which they are calculated to produce.

Another reason which had been urged in favor of a large ratio was the difficulty of doing business with a large representation. Mr. S. said this, like many other theories, was delusive and would not bear the test of fact and experience. He said the State of Connecticut, which he had the honor to represent, proved the truth of his remark. He said the popular branch of the Legislature of that State was composed of about two hundred members, who sat three weeks only in the Spring, and the same in Autumn, in a room not more than half the size of this, and he would presume to say it, although he represented that State, and this statement would be corroborated by those who had attended the deliberations of that body, that, for order, decorum, and dispatch of business, they were not surpassed by any other deliberative body. He did not by this mean to imply any disparagement to other Legislatures. For aught he knew, they all conducted their business with equal decorum. He was not over anxious to confine the ratio to what it is at present. If the population shall amount to what it is gen-

erally supposed, viz: seven millions, a ratio of one for every 35,000 will give precisely 200 members, which he thought would be a convenient number.

He said, an honorable gentleman from New York the other day advanced a doctrine to which he could by no means subscribe. Mr. S. said, being a Republican himself, he thought it did not by any means comport with true Republicanism. The gentleman said, that our citizens were to look altogether to their State Legislatures, and not to the National Legislature, for the protection of their rights; he thought it highly important that the States should have a proper representation here, so as to guard against the encroachments of the General Government upon the personal rights of citizens.

He asked the gentleman from New York, whether he had not at any time heretofore been jealous of the encroachments of this Government on the personal rights of our citizens? As to the other gentleman from New York, (Mr. Fisk,) he said his remark was not applicable to him; for, he said, if he had been rightly informed, that gentleman had never at any time heretofore been jealous of any such encroachments.

Mr. S. said further, if harmony among the members of this Union, and perpetuity to the same, were desirable, the large States would take heed how they unnecessarily degraded the small ones. He then appealed to the small and stationary States, how they ought to act upon the present occasion.

He said he trusted all difficulty would be avoided, if we would consent to wait, and accommodate, as far as may be, the ratio to the actual numbers which shall be returned, and to the fractions which will then appear upon any ratio which shall be proposed. He therefore moved an indefinite postponement.

Mr. SAWYER said that, as he was a friend to a representative democracy, and for diffusing its blessings as generally as possible, he should vote for an indefinite postponement rather than for filling the blank with the number proposed. If any argument, on account of the increased delay in our proceedings from an increased number of members is to prevail, it would justify us likewise in reducing the present number to any contemptible amount. Did we consult dispatch more than public justice and safety, we had better commit our affairs to the hands of six or eight members; for we have as much right, under the Constitution, to diminish the present number, as to fix a ratio which would give no expression to the voices of our increased numbers. The Constitution, by requiring a frequent enumeration, either had an eye to the rights of our increasing population, or must contain a clause of supererogation. Shall we render the Constitution a dead letter? Shall we evade one of its most imperative clauses? Shall we lose sight of one of the greatest safeguards of the people, for fear that the present body might be a little incommoded, or the public business retarded, by fixing on a ratio adapted to our present numbers? Rather

than derange a tawdry structure, the blessings of representation are to be withheld, and thousands of American citizens doomed to a political death. But gentlemen need not feel alarmed for the fate of this hall; it may conveniently contain many more than would be introduced by the lowest number proposed. As to any delay that might be occasioned in our proceedings, that is not owing to our numbers, but to a defect in our rules. The evil exists already, for, under our present regulations, six or eight members may at any time arrest our proceedings, and put the will of the majority at defiance, as long as their physical powers will hold them out. We hear of no such delay in the British Parliament, nor in our State Legislatures, that contain twice our numbers. And if a proper regulation existed here, as with them, by which some end might be put to the abuse of debate, we should find that a considerable influx of new members would produce little or no delay in our proceedings. But if it did, that should never be, with me, a reason for stifling the voice of my fellow-citizens, and of denying them one of the genuine attributes and proud appendages of their liberty. Let us carry that vital principle of the Constitution as far as it can be conveniently extended, and not, from a fear of a little delay in our proceedings, incur the danger and the shame of a poor and pitiful representation. Surely the rights of the United States are as important, require as many persons to manage them, as a common State. If the motion to fill the blank with forty thousand were to prevail, it would establish a representative aristocracy. Such a number would bear no just proportion. It would be a mere mockery of representation: an insult to a free people, which they would not willingly forgive; and if they submitted to it they would prepare themselves to be stripped of their power. I never expected to hear in this House (said Mr. S.) arguments that would justify the dissolution of it; and which, if I be not mistaken, were made use of by Cromwell and Bonaparte, as prologues to the political tragedies they were about to act. One gentleman says the State Legislatures are the proper guardians of our rights; another says, we can do nothing on account of our numbers. If so, it is high time the people were rid of the expense of this establishment. To such absurd conclusions do all arguments tend, when directed against reason and truth. Fortunately for mankind, they require only to be exposed to be refuted. They dissolve in the atmosphere of truth. As I think the proposition unjust, as I know it to be unconstitutional, and as I believe the State from which I came is not desirous of trusting its affairs in fewer hands, I am for postponing indefinitely, and against filling the blank with the number proposed.

Mr. MOSELEY said he hoped the motion of his honorable colleague for the indefinite postponement of the present bill would prevail. He said when he heard the chairman of the committee who reported the bill declare, when he offered his resolution for the appointment of that com-

mittee, that he should call it up at an early day, and every day, until it was disposed of, he did expect to hear some cogent reason assigned for the extraordinary dispatch which that gentleman seemed to consider necessary on so important a subject. But, so far from hearing from that or any other gentleman any satisfactory reason for precipitating the passage of this bill, the more the subject was discussed, the more he was convinced that it would be premature at least, if not unconstitutional, as contended by the honorable gentleman from Massachusetts on his left, to pass any law upon the subject at this time. It would certainly be a departure from all former precedent. Why not wait until we could get a complete return of the census, rather than act upon the partial light we now possess, which is worse than nothing, because it places us upon an unequal footing? Some gentlemen may have obtained accurate information respecting the present population of the States they represent, while others (which was the case with himself) had obtained none. He really could perceive no good reason why they should proceed to act in the dark upon a subject of so much consequence, when, by postponing it to a proper time, we shall have light which shall enable them to act understandingly. Unless, indeed, (which he was unwilling to suppose,) gentlemen loved darkness rather than light, because they feared, at least, that their deeds might be evil.

With regard to the ratio that it would be most expedient, upon general principles, to establish by the law, which they were about to pass, he was not prepared positively to say, but had heard no reason which convinced him that it was best to vary it essentially from what it at present is. He certainly should consider it inexpedient to increase the ratio so as to diminish the present representation of any of the States. The time may come, when, from our increased population, this might be necessary; but that time, he imagined, had not yet arrived. To fix the ratio with the present population, so as to retain the present representation in all the States, would not augment the number of Representatives to such a degree as to be attended with any great disadvantages in any point of view. From the best calculations that could be made, the number of Representatives, in such case, would not exceed two hundred, a less number than was to be found in several of the State Legislatures. But an objection had been made by some gentlemen that even this number would be inconvenient as it respected the personal accommodation of the members. He believed that the people would hear with surprise such an objection as this as to this spacious hall, which they then occupied, which had cost the nation such immense sums, and which was so large that it was with difficulty that gentlemen could make themselves heard from one side to the other of it. They would be led to suppose that, when a man becomes a member of Congress, he becomes not only nominally, but literally, a great man.

It had also been said that the public business

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could be transacted with more energy and dispatch in a body less numerous. And, if he rightly recollected, something like a comparison was made by an honorable gentleman from New York, whom he now saw in his place, and who was lately a distinguished member of the Senate, between the facility and dispatch with which business is transacted in that body and this.

Sir, said Mr. M., deliberation as well as dispatch is sometimes found useful in legislation. And he begged leave to remind that gentleman of an instance in which the candor of the gentleman would induce him to concede that the nation found safety in a multitude of counsellors. He alluded to the expeditious passage of a law, in the Senate, when that gentleman held a seat in that body, suspending the privilege of the writ of *habeas corpus*. Had that have passed with the same eclat through this House, he believed the nation would have thanked them if they had exercised a little less dispatch and energy, and a little more deliberation. He said he did not mention this by way of censure, because he believed the vote in the Senate was nearly unanimous, and his own political friends were implicated in it. This example, however, showed that there was more safety, at least, if not wisdom, in a multitude of counsellors.

But it had been said that by an increase of numbers debate would be increased. This, he said, was an evil which, if gentlemen would reflect, they really need not dread; for the present number, it had been already seen, could talk any subject the year in and the year out without any difficulty. He said he had not meant to say anything on this subject; and to allude to a remark of a worthy gentleman, lately a member of this House (Mr. UPHAM) who said that the *cacoethes loquendi* was contagious, and he had insensibly caught it; lest I should be thought to have caught it, said Mr. M., I will sit down. Indeed I should not have risen but for some remarks of gentlemen professing to be good Republicans, who have expressed sentiments not palatable to my constituents, who as well as myself are really Republicans; sentiments rather aristocratical, and tending to prove, if they prove anything, that a monarchy is the best form of Government.

Mr. MACON said that on this question he was not ashamed to avow that he had changed his mind; and he did so, because he had reason to believe that gentlemen from some of the States could calculate what ratio would best suit their population. Now, he knew nothing of what would suit the State he came from; and he was therefore for postponing the bill, that all might stand on the same ground when they came to decide this question. Try the gentlemen who were in favor of postponement, and they dreaded the ratio of forty thousand; but seven or eight and thirty thousand they thought would not be amiss. When he heard this, he thought that they must know a little more about it than he did; and he had accordingly written to the Marshal of the State of North Carolina, to know, as nearly as possible, what was the census of that State. Upon

this, as upon many other questions, the true question was kept quite out of view; for if gentlemen would look back to the debates, and turn over the Journals for the yeas and nays on this question heretofore, they would find every member speaking and voting for the number which best suited the State which he represented.

With respect to what would be too great a number to do business with convenience, Mr. M. said he had some time ago stated his opinion. He believed there was always more danger of their legislating too fast than too slow; he believed that every majority that ever existed had always been in a hurry. When he first had a seat in this House, this was a maxim of one of the best legislators he had ever known: vote when you are in the majority, talk when you are in the minority.

Mr. M. said he disliked the act for the suspension of the writ of *habeas corpus* as much as the gentleman from Connecticut; but they should put to it its older brother, the sedition law; they ought not to be divided. All majorities, he said, would have this itch for legislating fast, and all minorities for talking a great deal; a majority always understood that it must put its acts against all a minority could say. He asked gentlemen, whether, in the present state of things, it was fair to press this question. He had stated what he had done, and another gentleman, who represented a State much nearer than North Carolina, had also written to his marshal, and probably would get the information he wanted to day or to-morrow, and, no doubt, would then be as well prepared to act as others were. As this would not be the case with himself, Mr. M. said he was in favor of postponement, that all might have an equal chance of acting understandingly.

Mr. PIRKIN said that the gentleman last up had mentioned that probably some gentlemen were acquainted with the census of their States, and therefore better prepared to act than others. So far as respected himself, Mr. P. said he could inform the gentleman that as to the census of Connecticut, he knew it not; he did not even know the number in his own little village. He knew, however, that from the year 1790 to the year 1800, the increase in that State was about 14,000; it was so small on account of the great emigration. The emigration had not been less for the last ten years. Of course, therefore, the increase would not be much greater than for the ten preceding years; it might be about fifteen or sixteen thousand. He knew also that the ratio of 40,000 would take an increase of 30,000 more to enable Connecticut to maintain its present footing in the House of Representatives; and, judging from the former increase, he knew that Connecticut at the ratio of 40,000 must lose one of her members. This to be sure might not, he said, be of great consequence to the Union; but at the same time it might be to Connecticut. Mr. P. said he had no other data, than this mode of estimating it, on which to judge of the census of Connecticut. Without at this time entering into the merits of the question of a large or small rep-

resentation, he declared himself in favor of indefinite postponement.

Mr. FINDLEY said the question was taken in the Committee of the Whole with little discussion, because it met with little opposition, but he had since seriously reflected on the subject, and made up his mind to vote for the indefinite postponement of the question. He believed that Congress had power to determine the ratio in one law and the apportionment in another, but this had never before been done, and not being necessary he did not think it expedient to adopt a new method now. He was, however, in favor of increasing the ratio considerably, even though it might affect some States more than others; the States would always have unequal fractions when the ratio would be increased; therefore, this argument would always apply. This would be the case even by continuing the present ratio.

When the first census was taken, he was a member and attentive to the subject. The Federal Convention had agreed that the smallest ratio should be 40,000, but, on the suggestion of the President, it was finally fixed at 30,000. Himself and many other members endeavored to have this agreed to as the first ratio, believing that it would be increased with the population at every new enumeration. The Senate, however, agreed to begin with 40,000, and insisted on it, till it came to a conference, of which he was one of the conferees. Finally, however, 33,000, the present ratio was determined as that which left the smallest fraction in the whole unrepresented. Though he wished to increase it considerably, yet he was not so determined on any particular number, but what he was willing to vary it somewhat less or more, not in favor of any particular States, but so as to leave the smallest number of citizens on the whole unrepresented. He believed that this was their duty, and they could not do it till the enumeration was known. He did not think the two last days of the session was a suitable time to deliberate on making the apportionment; the House was then too much engaged with unfinished business, and generally too thin. He was in favor of leaving the whole to the next House as had been done always heretofore. If we did not do so he believed that the next House would have as much power to change our law as we had to make it; and as it required making two laws instead of one, he was not convinced of the necessity of changing the usual method which had heretofore given satisfaction, nor of any real advantage arising from the change.

The yeas and nays on indefinite postponement were taken: and were—yeas 55, nays 62, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, Adam Boyd, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, John Davenport, jun., William Ely, James Emott, William Findley, Charles Goldsborough, Thomas R. Gold, Edwin Gray, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Thomas Kenan, Herman Knickerbacker, Joseph

Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Vincent Mathews, Archibald McBryde, William Milnor, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, junior, Elisha R. Potter, John Rea of Pennsylvania, Samuel Ringgold, Lemuel Sawyer, John A. Scudder, Adam Seybert, Daniel Sheffey, Henry Southard, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Taylor, Archibald Van Horn, Laban Wheaton, James Wilson, Robert Witherspoon, and Robert Wright.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Jonathan Fisk, Meshack Franklin, Gideon Gardner, David S. Garland, Thomas Gholsen, Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Gurdon S. Mumford, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Richard Stanford, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Richard Winn.

So the motion was lost.

Mr. PITKIN said, as it was probable some gentlemen had voted against indefinite postponement, under an impression that the returns of the census would be received in sufficient time to act upon them during the present session, and thus save to some of the States the inconvenience of an extra session; he should move to postpone the further consideration of the subject to the second Monday in February, in the hope that we should obtain a majority in favor of such a course.

Mr. SMILIE declared himself opposed to the present motion and for the same reason for which he was opposed to indefinite postponement. Because he wished the ratio to be fixed before the returns were made, and before the members could have an opportunity of calculating the fractions which might be left to individual States. He was in the House when the last census was taken, and the existing apportionment made. On that occasion, when the result of the population was known, there was a kind of accommodation, in fixing the ratio, between those States who had fractions—they combined together to make that apportionment which would leave the smallest fraction of unrepresented population to the individual States which they represented. He saw no reason to induce an opinion that the same circumstance would not occur on the present occasion, were the returns to be made, previous to fixing the ratio. It has been observed that if the ratio was fixed now, injustice would be done to some of the small States. This he could not perceive, for the principle was equally impartial to all; and even if the interest of a small State



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should suffer, the interest of a part should yield to that of the whole. Mr. S. entered into a brief examination of the details of this subject, and concluded with expressing his hope that the bill would not be postponed.

Mr. MILNOR said, that when this subject had been first brought into view, and the reasons given which were now urged, he thought the reasoning in favor of the course proposed by the bill appeared so plausible, that he had himself been an advocate for fixing the ratio at the present time. Under that impression he had voted in Committee of the Whole; but the observations since made from various sides of the House had convinced him that this was not the time when the ratio ought to be fixed.

The gentleman last up had remarked that, fix the ratio as they would, the relative weight of each State would not be altered. This idea, said Mr. M., was not warranted by an examination into the subject. Rhode Island was now represented by two members; Virginia by 22. If the ratio was fixed at such a rate as to take one from each of these States, he asked whether their relative loss would be the same. If so, it was a truth of which he had no conception. It much astonished him to find that gentlemen who were the greatest sticklers for State rights, and extremely afraid that the General Government should encroach upon them; that these gentlemen were desirous to fix on a ratio which went to diminish the influence of the small States, and increase that of the larger ones. He was himself a sincere friend to the State governments, and deemed it all-important to preserve them in their purity. This is a confederated, not a consolidated, Government, and while we wish to preserve our freedom, it should remain as it is. The diminishing the influence of the small States would have a tendency to consolidate the Government—to do away the Confederation. Although this is a Government of limited powers, yet, in a variety of cases which come under the notice of the Government, there was great danger of the State governments being greatly infringed upon. It was, therefore, his view to preserve a full representation of the smaller States upon the floor of this House.

Mr. M. said he was equally ignorant with other gentlemen how the ratio would affect the numbers of the respective States; but he had an idea how a large ratio would affect a number of the States. At least he believed the ratio of forty thousand would probably deprive the State of New Hampshire of a Representative on this floor; Rhode Island would certainly lose one; New Jersey and Maryland might also lose one. With respect to his own State, he was at a loss whether it would or would not lose; but he confessed that he was doubtful whether it had so increased as to admit the ratio of forty thousand, and continue its present representation. He believed that the representatives of the Eastern States ought to be cautious how they increased the ratio to forty thousand, when they knew that the interests of Tennessee and Ohio would be

so prominent when they had a representation on the floor according to the third census. There were a variety of considerations which ought to induce the House to be extremely cautious how they cut down the Middle and Eastern States to a less representation than they now possessed. Gentlemen ought, if possible, to avoid creating causes of jealousy between the several States. Mr. M. dwelt on the importance of preserving harmony. It was painful to urge these considerations; but he was so strongly impressed with them that he was compelled to press them upon the House.

Mr. M. said he believed the evils to be feared from a diminished representation were much stronger than from an increased one. He was, therefore, in favor of postponement till the result of the census was known.

Mr. TAYLOR objected to the bill because it was incomplete for the object it had in view; because it would be necessary to pass another law declaring to how many Representatives each State should be entitled. It was then demanded of the House, by the bill on the table, to legislate, as it were, abstractedly on this subject. He said he was not prepared to do so, for a very obvious reason at once staring him in the face—that, if they did legislate on it, the next Legislature would be competent to repeal the legislation of this day. Indeed, he believed it would be his bounden duty, if the law were now passed, and at the end of the session he should find that the ratio adopted would leave to South Carolina a fraction of thirty-five thousand unrepresented; if such proved to be the case, he could not dare to refuse to reconsider his vote and amend the law so as to make it more advantageous to his constituents or the State he represented. Did gentlemen suppose, if it should appear that five, or six, or seven States, might have an immense fraction; that he should so disregard the interest of his constituents as to consider binding this thing, which, if they regarded the Constitution and the practice under it, they had not a right to pronounce binding? The Constitution had directed that the apportionment should be made according to numbers; but the bill proposed to make it before the numbers were known. He called the attention of the House to a fact which would show pretty clearly what had been the opinion of the States on the subject of legislating abstractedly on this head. Congress had proposed, in 1787, soon after the adoption of the Constitution, several amendments, among which was one fixing limits to the ratio of apportionment, &c. This proposition, Mr. T. said, appeared to be a very reasonable one, taking it abstractedly; but what had the States, the people, to whom they were accountable, said on the subject? Had that article become a part of the Constitution? No; it had been rejected by the States. And would the House take upon itself to do that which the States had said it was expedient that they should not do? He hoped not. He thought, from the very circumstance of their refusing to adopt this article, that Congress were precluded from pro-

ceeding any further until they should be able, according to the letter of the Constitution, to apportion the representation according to the numbers legally ascertained. The great desideratum in this case was a fair and equal representation of the people. If this equality could be better attained by a ratio of thirty-five thousand than by a ratio of forty thousand, (and, by comparing the returns of each State, that would be ascertained,) it would become their bounden duty to further that principle, keeping in view the convenience of legislation, not making the House to consist of five or of two hundred at present. He was in favor of postponement, that the apportionment might be made according to the letter of the Constitution, apportioning the representation according to numbers.

Mr. W. ALSTON said, that postponement to a day within the session, was more objectionable to him than indefinite postponement. He wished to avoid the difficulty resulting from a knowledge of the numbers. If a particular ratio should suit the census of three or four of the larger States, they would unite and totally disregard the smaller States. If the large States would take a large ratio, he was willing to agree to it; for, take any ratio which should deprive North Carolina of one Representative, and they would deprive Virginia of two; and when they came to vote for President, Virginia would be nearer to her than if she had taken a small ratio. He defied gentlemen to show that the adoption of a large ratio would not have this bearing. Gentlemen must be convinced that whatever ratio reduced the representation of a small State would proportionably reduce that of a large one. For his own part, he was disposed to give a Representative to every State that had a large fraction.

Mr. MITCHELL said, that notwithstanding the various observations which had been made on this subject, it seemed to him to stand on its original basis. On the day to which it was proposed to postpone the bill, other matters would be found to occupy the House, calling for all its attention.

Mr. M. said, he was disposed to pursue this business and bring it to a close; that was, to pass or reject the bill by a direct vote. It seemed to him that a fundamental error had prevailed on this occasion; gentlemen having talked of the relative weight of the States being affected by the bill. If they consider the provisions of the Constitution with respect to the representation in this House, it was a representation *per capita*, as the Senate was a representation by States. When the States were brought into view by the Constitution on this point, according to the construction he put upon it, they were considered merely as organs to assist the General Government in taking the census. If this was the case, and he believed this view of the subject was correct, when they came to a calculation of the returns made of the polls, what cause was there for alarm on this occasion? He could see no cause for it; for if there was a diminution of numbers in any State, there was a correspondent

increased number and representation in the portion of the Union to which they had emigrated; and it would be very unfair, when a portion of the population of a State or district had emigrated, that this district should be represented in the same proportion as when it possessed double its present population. This was a sort of two-fold representation which he could not reconcile with the Constitution.

But Mr. M. invited gentlemen to consider this question in relation to State influence. Experience had taught him that gentlemen did not vote by States, but by *per capita*. How often, he asked, did gentlemen, coming from the same State, vote as differently as if they came from the most remote part of the Union. The fact was, that the members of the House voted by polls, each according to what his sense of duty dictated. He considered, therefore, that there was no ground for this question about the influence of the States, as such, in the House. It struck him this was something held up to frighten the House; which, on examination, would be found to exhibit nothing terrific.

In another point of view, Mr. M. said, he thought the great interests of the Union were represented. He stated what these were. In the original settlement of this country, there were the interests of the first settlers on James River and that of the settlers at Plymouth—the Virginia and New England interests. These, said he, were the germs of the nation; the source whence have sprung up the great mass of the people whom we constitute and represent. What was the consequence? If from Virginia colonies had extended over the Southern and Western States, New England had also sent forth swarms which had spread over New York, Ohio, Pennsylvania, and everywhere that they had thought proper to plant themselves. When we reflect, said Mr. M., on the influence of the opinions which these emigrants from each State carry with them, and which will be brought into this House, the two interests may be considered as nearly balanced in this House. On that ground, therefore, as respects feeling and opinion, I view the provisions of this bill as exactly equal as they are in respect to the population of the several States.

Mr. M. said, his opinion was, that if they decided on the bill at all, they should do it promptly and might decide it as well now as at a future day.

Whilst on the floor, he said he would make a remark or two on what had fallen in relation to the smallness of bodies inclining them to act with a promptness not always consistent with wisdom. He said he did not contend that any body of men, associating under any form of Government, were infallible. As long as they labored under the infirmities of their nature, all bodies, whether large or small, would be subject to the errors incident to humanity. If they were not, they would approach the Divine Nature, and be no longer the frail creatures which they found themselves to be. As to the particular matter of the bill for the suspension of the habeas corpus law, Mr. M.

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said, he had given it his honest and hearty approbation, under existing circumstances. A daring and desperate individual had undertaken a conspiracy against the peace and, he believed, the integrity of the United States. This conspiracy was known to have been extended and ramified to a great extent. It was not known how far. But it became a wise and provident Legislature to aid the Executive against any evil; and there were certain persons who blew the trumpet of fame at that time, who made the alarm much greater than it was in reality. Besides, said Mr. M., it will be remembered, that that was not a general suspension of the habeas corpus law: it interfered with none but those concerned in treasonable projects. But the gentleman from Connecticut exulted that the storm blew over; that the House of Representatives did not agree to the bill, and it was, therefore, crushed. It may have been, said Mr. M., that the mere numbers of the House prevented its passage; I should have ascribed it to the wisdom of the House—and I will explain why they might with wisdom have rejected it. They received it some days after the Senate had enacted it. They took it into consideration, and got further intelligence what the States were doing to oppose it; and permit me here to remark, that the result of this business showed the strength of the Government when the States were in union with it. Without their co-operation it would be as weak as a rope of sand. What, sir, took place at that time? The Legislature of Kentucky arrayed its forces with promptitude; Tennessee prepared, and Ohio was actually in arms. Here was a confederacy of States, and this mischief was arrested, but not owing to any act of the Government of the United States, unless by the Executive in calling on the State authorities to act. This is the history of the case; and, after this view of the subject, I hope my friend from Connecticut will reconsider what he has thought proper to offer, and take into consideration, also, that multitudinous bodies sometimes do things of a serious nature without deliberation. I need not call to his recollection the precipitancy with which the Parliament of England beheaded the last of the Stuarts; and with which the multitude crucified the Saviour of the World. There are many instances on record, in which numerous bodies have acted with that promptitude and indiscretion which is ascribed to the Senate of the United States. When gentlemen considered this question, and reflected on the great mass of business before them, he was persuaded they would not consider the bill a proper subject for further postponement.

Mr. POTTER spoke in favor of postponement. He could not see any good, but a great deal of evil, to result from now acting on the subject. The census of Rhode Island, he said, would probably prove to be seventy eight or seventy-nine thousand; and to fix arbitrarily on a ratio which should deprive her of one of her present Representatives would be a hardship, and an act of injustice.

Mr. SHEFFEY said, he had been induced to be in favor of the bill heretofore, from a belief that those collisions arising from State interests would be entirely done away by it; and with another view, that the States might be enabled to make provision for the election of their members. He found, however, upon reflection, that this, like every other subject, ought to be determined on all the information in the power of the persons determining it; that this case did not differ from the general rule requiring that they should legislate with their eyes open. He had, therefore, now changed the opinion to which he had strongly attached himself at the last session. He had been under the erroneous impression that fixing the ratio closed the subject forever; but on reflection, he found, that but half what was necessary would be accomplished by passing this bill. Let us see (said he) how fixing the ratio might operate; and then I ask any gentleman attached to liberality and justice, whether he would feel himself bound by the determination of this House, if he should be a member of the next Congress. Suppose the population of Virginia should prove to be nine hundred and nineteen thousand, and that of Rhode Island seventy-nine thousand. Each of those States at the rate of forty thousand, would have the same fraction of thirty-nine thousand. Could I, sir, who consider the predominant motives for action to be principles of justice, be in favor of such a ratio? Putting State influence entirely out of the question in this case, I should, although in favor of a very large ratio, on a question of that kind, determine on the ratio of thirty-nine thousand; if a ratio of forty or fifty thousand would produce the same result, I should be governed by the same principle.

The gentleman from New York had told them that the representation in this House, was a representation *per capita*. Would it be so, if in one quarter of it forty thousand were represented by one man, whilst, in another quarter, seventy-nine thousand had only the same representation, because they lay in a different section of the Union? Mr. S. said, the representation was not *per capita*, but by States. The whole Union was not thrown into election districts, without regard to State limits. Each State sent here the number of Representatives decreed to it, according to a rule fixed by the Constitution.

Mr. S. was in favor of postponement to a day within the session, because the returns might arrive in time to enable the House to decide on it. It had been observed, that there would be so much business before the House they would not be able to take up the subject. What did this prove, but that this was an object of secondary moment, and did not imperiously demand the attention of the House at this time? If it should hereafter imperiously call for a decision, the majority of the House had here control and would be able to take it up.

The question was then taken on postponing the bill to the second Monday in February, and carried—yeas 66, nays 51, as follows:

YEAS—Joseph Allen, Lemuel J. Alston, Abijah

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Bigelow, Daniel Blaisdell, Adam Boyd, James Breckenridge, William Butler, Joseph Calhoun, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, John Davenport, jr., William Ely, James Emott, William Findley, Gideon Gardner, Charles Goldsborough, Thomas R. Gold, Edwin Gray, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Thomas Kenan, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Samuel Ringgold, Lemuel Sawyer, John A. Scudder, Adam Seybert, Daniel Sheffey, George Smith, John Smith, Henry Southard, Richard Stanford, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Taylor, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, James Wilson, Robert Witherspoon, and Robert Wright.

**NAYS**—Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Robert Brown, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Jonathan Fisk, Meshack Franklin, David S. Garland, Thomas Gholson, Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Richard M. Johnson, William Kennedy, Aaron Lyle, Samuel McKee, Alexander McKim, Samuel L. Mitchell, Gurdon S. Mumford, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, John Smilie, Samuel Smith, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Richard Winn.

**TUESDAY, December 18.**

Another member, to wit: from Massachusetts, **BARZILLAI GANNETT**, appeared, and took his seat.

**GEORGE POINDEXTER**, the Delegate from the Mississippi Territory, also appeared, and took his seat.

**Mr. SEYBERT** presented a petition of the merchants of the city of Philadelphia, praying that Congress will authorize the importation of goods into the United States from places beyond the Cape of Good Hope, after the second day of February next, anything in the act of the last session concerning the commercial intercourse between the United States and Great Britain and France, to the contrary notwithstanding.—Referred to the Committee on Foreign Relations.

**Mr. FINDLEY** presented a petition of the Stockholders of the Bank of the United States, signed by David Lenox, their President, praying the renewal of their charter of incorporation; which was read, and referred to a select committee, to consider and report thereon to the House.

**Mr. BURWELL**, **Mr. FINDLEY**, **Mr. SOUTHARD**, **Mr. MITCHELL**, **Mr. FRANKLIN**, **Mr. BUTLER**, **Mr. J. C. CHAMBERLAIN**, **Mr. W. CHAMBERLIN**, **Mr. MOSELEY**, **Mr. N. R. MOORE**, **Mr. MILLER**, **Mr.**

**SMELT**, **Mr. JOHNSON**, **Mr. MORROW**, **Mr. JACKSON**, **Mr. GANNETT**, and **Mr. POINDEXTER**, were appointed the said committee.

**Mr. NEWTON**, from the Committee of Commerce and Manufactures, presented a bill for the relief of George Armroyd and Company; which was read twice and committed to a Committee of the Whole to-morrow.

#### GENERAL WILKINSON.

**Mr. PEARSON** said that during the last session of Congress a committee had been appointed by this House to inquire into the conduct of Brigadier General James Wilkinson; but from a part of the report, which he read, the House would recollect that the committee had not brought their investigation to a conclusion. In order to perfect what had been thus commenced, he moved the following resolution:

*Resolved*, That a committee be appointed to inquire into the conduct of Brigadier General James Wilkinson, in relation to his having at any time, whilst in the service of the United States, corruptly received money from the Government of Spain or its agents, or in relation to his having, during the time aforesaid, been an accomplice, or in any way concerned with the agents of any foreign Power, or with Aaron Burr, in a project against the dominions of the King of Spain, or to dismember these United States. And that the said committee inquire generally into the conduct of the said James Wilkinson as Brigadier General of the Army of the United States: That the said committee have power to send for persons and papers and compel their attendance and production, and that they report the result of their inquiry to this House.

**Mr. P.** said he would barely remark that having been a member of the committee at the last session he was well convinced that the committee had not drawn their investigation to a conclusion; for although he had studiously avoided conversing on this subject, or communicating with any one in relation to it, yet evidence unsought for had come to his knowledge, which had not been before the committee, and which, if to be relied on, he deemed material to the investigation.

The House agreed to consider the resolution, 61 to 35.

**Mr. ROOR** said, he hoped this question would not be taken very hastily. He wished the motion might lie on the table for two or three days. He believed one member of the resolution to be unnecessary, nay, improper. He said he was not now prepared to refer to documents or reports, or to the sentence of a military court of inquiry to prove it. He alluded to that member of the resolution, which regarded the Spanish business. There had been causes, he said, unfolded to the Committee, at the last session, which would show the impropriety of inquiring into the business of the Spanish pension. It would be premature now to state the reasons which governed his mind in wishing to strike it out. He moved that the resolution should lie on the table.

**Mr. TAYLOR** said he had always been of opinion that the power of this House did not extend

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to the subject of this inquiry. That opinion, however, had not been in coincidence with the opinion of a majority of this House. Neither should he now attempt to argue this ground over again. He was, and he believed a great majority of the House was, pretty well tired of this subject; and, if the investigation was to come to anything, he would be for giving to the committee, who were to have the subject in charge, the earliest possible opportunity to commence their labors. For, he said, he believed if this individual possessed a grain of popularity, a penny-weight of weight of character, this mode of bringing forward this subject, so late in the session that it was impossible to come to a conclusion; this holding up his character on the tenter-hooks of public opinion, the course pursued throughout the whole business, would make the worse the better side. He said he was unwilling, if this person was unworthy the confidence of the Government, that he should hold a situation where the Government could not take hold of him, and he would, therefore, not postpone the subject a day or an hour, but give it to the committee, if it was the sense of the House; for, he would say, that the Government of the United States, in respect to this individual, from the time of his being ordered from command, had their hands tied, not having the power of dismissing him from service, even if it had been proper. If he had done so, it would have been said that he had snatched the victim from public opinion, and had dismissed him from service lest his improper actions should implicate the Executive, who had so long continued him in command. Censure has been passed upon this officer by the Government, inasmuch as he has been superseded in an important command, previously, too, as it appears, to the motion of the gentleman from North Carolina, (Mr. PEARSON,) at the last session. Mr. T. said, he was not for putting it off; he was for meeting the thing. If gentlemen of the House were determined to inquire, he said, let it be speedily, so that there might be an end to the business, and to the unjust imputations on the Government for keeping him in employ, when it was the opinion of many (he had already expressed his) that he should be removed. Mr. T. said, he was against postponement for a day or an hour. Even if he were anxious for the reputation of the individual, he should be of the same opinion. He was anxious also for the reputation of the Executive retaining him in office, which would be committed by keeping him in command, if Congress, by a sort of committee of safety, an unconstitutional court or committee of inquiry, had not stepped in between him and them. He was extremely averse to postponement.

Mr. SMILIE said he agreed with his friend from South Carolina in one respect, but could not vote with him on this question, because he considered this business, from its commencement to this day, as an unconstitutional proceeding on the part of this House. The House appeared determined to go on; so let them, but it should not be with the aid of his vote. When a few

more difficulties had been created by the proceeding, they would come to a proper understanding of the subject. He was not sorry, he said, but so far from it was glad, that this subject had been renewed; for the excess of the evil would correct itself most effectually, when every man would turn his eye upon himself, and reflect upon the precariousness of his own situation, if a committee of this House could hang him up before the public, at the same time that he was liable to be brought to trial before another authority. He could not aid the progress of the inquiry by any vote of his, though he rejoiced that the matter was again taken up.

Mr. PITKIN said, that if this subject were new, and now for the first time agitated, he presumed there would be no objection to its lying on the table. But as it was not new, the subject having been particularly before the House at the last session, and an inquiry partially had, and a report made on the subject, he could see no sufficient reason for its lying on the table. If the majority was determined that there should be no further inquiry, it ought to be decided immediately, for the reasons mentioned by the gentleman from South Carolina: for the honor of the Executive, and of the person whose conduct was the subject of inquiry. The limited duration of the session was also a strong argument in favor of an early decision.

The question on the resolution's lying on the table was lost—yeas 33, nays 78, as follows:

YEAS—David Bard, Burwell Bassett, Robert Brown, Joseph Calhoun, Matthew Clay, William Crawford, Jonathan Fisk, Meshack Franklin, Thomas Gholson, William Helms, James Holland, Jacob Hufty, Thomas Kenan, Alexander McKim, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, John Nicholson, John Porter, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Ebenezer Seaver, Samuel Shaw, John Smilie, Henry Southard, John Thompson, Uri Tracy, Robert Whitehill, and Robert Wright.

NAYS—Joseph Allen, Lemuel J. Alston, Willis Alston, jr., Wm. Anderson, Wm. T. Barry, Abijah Bigelow, Daniel Blaisdell, Adam Boyd, James Breckenridge, Wm. A. Burwell, Wm. Butler, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, James Cochran, Richard Cutts, John Davenport, junior, Joseph Desha, William Ely, James Emott, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Joseph Lewis, jr., Robert Le Roy Livingston, Aaron Lyle, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Thomas Moore, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Thomas Sammons, John A. Scudder, Adam Seybert, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, Richard Stanford, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Taylor, George M. Troup, Charles Turner, jr., Archibald Van Horn, Killian K.

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Van Rensselaer, Robert Weakley, Laban Wheaton, James Wilson, Richard Winn, and Robert Wither-  
spoon.

Mr. LOVE moved to postpone the further consideration until to-morrow. Lost—46 to 53.

Mr. TROUP moved to amend the resolution by adding thereto the following: "and further, that the said James Wilkinson be notified of the time and place of meeting of said committee, and be heard in his defence."

Mr. STANFORD said he had never doubted, as well from the Constitution as from the plainest dictates of common sense, that the House had the right to inquire into the state and conduct of the Army, or that of one of its commanding officers, and had more than once authorized committees for that purpose; but the form of a court to sit, collect testimony, hear and try a military officer, had never before been attempted, because to the mere purpose of inquiry no such thing was necessary, if proper. If the committee is to go into this form in the business, and then again the House in like manner, there would be no end to the business. The amendment now proposed assuming the form of trying General Wilkinson, he hoped it would not be adopted. He had no idea of a committee of this House calling a gentleman of the military garb before them; hear him, as it is said, in his defence, and it would seem, as a thing of course, afterwards to pronounce guilty or not guilty.

Mr. PEARSON said it had been believed by the committee at the last session of Congress that they had the power to receive any evidence General Wilkinson might think proper to bring forward, and in the manner which should have been deemed most consistent with the duty of the committee, and the honor of the House who appointed them; and he believed that every member of the committee had been at all times during the session perfectly willing to receive any communication which General Wilkinson might have thought proper to offer. If it was the object of the mover merely that the committee should receive any evidence relative to the subject, he conceived that the amendment of the gentleman, though not improper, was unnecessary. He believed it was the understanding of all gentlemen who were in favor of the resolution that testimony should not be entirely *ex parte*; but the committee ought not, he conceived, to be bound to receive the evidence, unless they deemed it conducive to the end of the inquiry. He was opposed to the amendment more because it was unnecessary than improper.

Mr. TROUP supported his amendment. Was it possible, he asked, that this House could ever think of coming to a decision on the character and conduct of an individual without hearing him in his defence? If they heard *ex parte* testimony, was it possible that they would come to an *ex parte* conclusion? General Wilkinson must either be heard by the committee appointed or by the House in his defence before they pronounced on his conduct, or acted in relation to him as if they had done so. Suppose the House

should on this occasion choose to consider itself as an inquisitorial tribunal—as the grand inquest of the nation as it was called—why, it might happen that the General might be tried twice for the same offence, by what was called the grand inquest of this House, and by what was called the grand and petty jury of his country. The House would observe that, in the case of their proceeding, although there was a grand jury to find the bill, there was not a petty jury to determine the question of guilty or not guilty. After pronouncing as far as they could, the House were to turn him over to the laws, according to which he must appear before another grand inquest, and afterwards, be tried whether guilty or not guilty, before a petty jury. If they proceeded in this way there would be a double prosecution for the same offence. Mr. T. was therefore decidedly of opinion that if the House pursued the subject, General Wilkinson ought to have his Constitutional and legal right to confront his accusers.

Mr. RHEA said this amendment would cap the climax of the unconstitutionality of their proceeding; for it would give to the inquiry all the formality of trial. General Wilkinson was to put in his plea of guilty or not guilty; the committee must rejoin; evidence must be taken, on which the committee would pronounce. This would be a trial to all intents and purposes, except that in other cases the party was not called upon to answer before bills were found. If there was any provision contained in the Constitution to warrant such a proceeding, it was unknown to him. If he were desirous to add to the absurdity of the original resolution, he should vote for the amendment, but he had no such disposition. He had risen for the purpose of requiring the yeas and nays on the question.

Mr. W. ALSTON said that unquestionably if the House had a right to inquire into the guilt, they had a right to inquire also into the innocence of General Wilkinson. It was admitted on all hands that the House were not to proceed to final judgment on General Wilkinson. Would it be right or just to collect everything against an individual, to blast his character forever, without hearing his side of the question? Who knew, if they heard him in his defence, but the charges against him might be all disproved? If truth were the only thing they were in search of, could any man object to hearing both sides of the question? Every one, who had ever attended courts, must have been satisfied that one story was good until another was told. The objections to this amendment showed that one side of the question was wanted and not the other.

Mr. SMILE said he wished to know one thing of the gentlemen who patronised this resolution: what was their object? The business had arrived to that stage that it was time to declare what they ultimately meant. Did they mean, after the inquiry was finished, that the House was to decide on the guilt or innocence of this officer? If this was what was meant, they ought to tell it, and in that case the amendment was necessary. If the committee passed sentence,

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they ought to show whence the power was derived. From the Constitution it could not be, for there was no such power there. He supposed, however, that they did not mean to carry the matter so far, but merely to pursue the inquiry, and blast the man's character by publishing the result of a one-sided inquiry. Mr. S. appealed to gentlemen whether after this General Wilkinson could have a fair trial before either of the courts, civil or military, before whom he might be called. He hoped at all events they would declare what was their object; either to judge the man and pronounce sentence on him, or publish to the world everything they could collect against the character of the man. Indeed, in his opinion, the House had got into a situation in which they would always find themselves when they took a wrong step. His opinion had uniformly been that the House did not possess an inquisitorial power as such; that where they had no power to impeach they had no power to make inquiry into the conduct of an individual.

Mr. PEARSON said on further reflection he had thought proper to accept the amendment offered by Mr. TROUP as a part of his motion.

The amendment of Mr. TROUP having thus become a part of Mr. PEARSON'S resolution—

Mr. T. MOORE said that now this amendment was incorporated in the original motion, he found himself under the necessity of voting against the whole. He had always considered that the House had a right to inquire into the conduct of General Wilkinson, but he could never agree that they had a right to try him. The gentleman from Pennsylvania had stated, that if the House proceeded and sent that officer before a court-martial with the sentence of the House on his back, it would be holding him up to public view in a way which would be very unfavorable. For his part, Mr. M. said, he could see that officer in no other point of view than as a person before a grand jury, against whom a bill was to be found. How would that operate? Would it prevent justice? No; every day's experience proves to the contrary. The amendment carried with it the appearance of putting General Wilkinson on his trial. Mr. M. was therefore against it.

Mr. STANFORD said he had no idea that the House had a right to go into the full form of trying a military officer by one of its committees. Believing the amendment had given the proposition a form which rendered it questionable whether in passing it they were borne out by the Constitution or not, he must vote against the resolution in that character. The House had on a former occasion collected testimony and sent it to the Executive—on which testimony, he presumed, the court of inquiry had been held in due form. He was not disposed to go farther in this case than sending the testimony to be collected to the Executive. He therefore moved to strike out those words which had been inserted in the resolution at the suggestion of the gentleman from Georgia.

Mr. BUTLER said, that situated as he had been during the last session of Congress, he found him-

self called upon to answer the question of the gentleman from Pennsylvania, who asked what gentlemen meant by this inquiry. I trust, Mr. Speaker, (said he) I shall be among the last either in this House, or elsewhere, that would say or do any act that would unjustly detract from the merits of the man that is brave and virtuous; and the General's bravery was not doubted. But, whilst I am anxious to guard the reputation of the individual, I wish to pay some attention to the honor and independence of the American Republic; and believing as I now do, that General Wilkinson, as Commander-in-Chief of the American Army, has been guilty of improper conduct, I am willing this House shall make the inquiry, and, after hearing the evidence on both sides, if the charges exhibited against General Wilkinson shall be refuted, I wish to say to the world that he is an innocent and persecuted man; and if, on the other hand, after mature investigation, the facts as already stated in the report of the committee, of which I was last session a member, should appear to be correct, as a Representative of the people of the United States I will not hesitate to say, that General Wilkinson ought to be made a public example. That was my meaning when on the committee last session; what may be the idea of the committee of this session is not for me to say.

The question was then taken on Mr. STANFORD'S motion, and lost—yeas 20, nays 89, as follows:

YEAS—Joseph Allen, Daniel Blaisdell, James Breckenridge, Robert Brown, William Chamberlin, John Davenport, jr., William Ely, Edwin Gray, Robert Le Roy Livingston, Pleasant M. Miller, Samuel L. Mitchell, Thomas Moore, Timothy Pitkin, jr., Elisha R. Potter, John Rhea of Pennsylvania, Richard Stanford, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, and Laban Wheaton.

NAYS—Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, Abijah Bigelow, Adam Boyd, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, James Cochran, William Crawford, Richard Cutts, Joseph Desha, James Emott, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, William Helms, James Holland, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Aaron Lyle, Vincent Matthews, Archibald McBryde, Samuel McKee, Alexander McKim, William Milnor, John Montgomery, Nicholas R. Moore, Jonathan O. Moseley, Gurdon S. Mumford, Thomas Newton, John Nicholson, Joseph Pearson, John Porter, Peter B. Porter, Josiah Quincy, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, John Taylor, John Thompson, Uri Tracy,

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The question recurring on the resolution as amended—

Mr. MITCHELL said he was opposed to it on the broad ground that it had already occupied too much of the attention of the House. He therefore wished it dismissed, and that the person concerned might be left to be dealt with by the Executive as the Constitution directs; and as he would be if it were not for the interference of the House. Mr. M. said he thought the House had better adhere to its legislative functions, in which it had enough to do, and to leave to the Executive to perform his functions as Commander-in-Chief of the Armies of the United States.

Mr. ROOT said he would not detain the House by moving to strike out any part of the resolution, for he was convinced from the votes which had been taken that the resolution would pass as it now stood; but as he had at the last session voted for a resolution similar to that under consideration, and had the honor to be appointed one of the committee, he felt it a duty which he owed to himself and the House to state some of the reasons which had induced him to change his opinion on the subject. An aged and honorable friend (Mr. SMILIE) had at the last session given admonition of the impropriety of their proceeding, and Mr. R. said the longer he sat upon the committee the more he became convinced of the incorrectness of his vote. At that time the popular clamor had been loud; the public had appeared to demand the inquiry; and he had heard of the lamentable destruction of the Army in the marshes of Terre au Boeuf. Without much reflection on the constitutionality of the question, Mr. R. said, he voted for the inquiry; and he had thought that perhaps something might grow out of it; that the House might withhold supplies as long as the Executive continued in command a man whom the House on a full investigation should deem unworthy of the public confidence. He had thought, also, that it might lead to another object—the repeal of the law creating the office of Brigadier General. This inquiry by the House, Mr. R. said, he believed had prevented the dismissal of General Wilkinson, or at least an Executive inquiry into his conduct. He said that he had found that a committee would be unable, and must of necessity be unable, to do justice to the character of the individual and justice to the nation. By what means, he asked, could the committee compel the attendance of witnesses; and how were they to be informed of the persons proper to be subpoenaed unless from officers who had been, or now were, under the command of General Wilkinson, and were willing to volunteer their services against him? How should these things be known, unless from those whose object it was, instead of allaying, to increase the popular clamor? To be sure the resolution now looked as if General Wilkinson was to be heard before the committee. But

were the House certain that he would avail himself of the opportunity? He had not at the last session asked to be heard by the committee, because the powers of that committee did not extend to declaring his guilt or innocence.

This resolution, Mr. R. said, embraced three objects, two of which had been already sufficiently examined. His conduct on the marshes below New Orleans had been sufficiently investigated by a committee appointed at the last session expressly to inquire into that subject. His conduct as to the Spanish pension had been investigated before a military court instituted for the purpose; and by that court it had been reported that there was no evidence of his having been a Spanish pensioner, but that his having received money from the Spanish Government was on account of a tobacco contract. But even if that were not the fact, the length of time elapsed, and the circumstances attending the transaction, would be sufficient to render an investigation on that point inexpedient. As long ago as 1786 or 1787, when the mouths of the Mississippi were held by Spain, the inhabitants on its waters were taking measures, if not for independence of the United States, at least for a connexion with Spain. But was this anything new? Had it not been communicated to General WASHINGTON, and also to Mr. Adams? Yes; and what had they done? They had given instructions to search into the matter; but, when the treaty had been made with Spain in 1796, and the association was dissolved, there having been many persons involved whose names had been heard on this side the Alleghany, the Government had thought proper not to make the investigation. At the last session, Mr. R. said he had seen letters communicated to Mr. McHenry, when Secretary of War, giving information on the subject. Those letters had not been put upon the files of the War office, but had been retained among his private papers. It had been deemed prudent by WASHINGTON and ADAMS to suffer the matter to go to rest. What occasion, then, was there now to revive this inquiry; to rake up the ashes of the dead? With a knowledge of every thing relating to the subject, General Wilkinson had been permitted by three successive administrations to remain in office.

Mr. R. said he felt a confidence that, if, upon investigation, the charges against him had been found to be well grounded, General Wilkinson would have been, before this time, removed from the command from which he had been suspended but for the inquiry. He was unwilling that another inquiry by the House should protract the time when a proper inquiry should take place, and his dismissal from service ensue, if it should then appear necessary. He was therefore opposed to the resolution.

Mr. GHOLSON said he had voted in favor of the motion to lay the resolution before the House on the table. He had also voted for its postponement until to-morrow. But he was not governed by any of the reasons which had been assigned by some of the gentlemen with whom he had the



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honor of being associated in these votes. So far from it, he could not question the Constitutional authority of the House to pass the resolution. He had been induced to support the two first motions that were made, because a want of preparation to act on this subject had been expressed on the floor, and because he saw no necessity for precipitancy in its disposition.

As it regards the Constitutional competency of this House to investigate the misprisions, *tortfeasances*, and mal-conduct, generally, of any officer, whether civil or military, belonging to this Government, my opinion, said Mr. G., has been long since satisfactorily formed. I not only believe that the House possesses this power, as incidental to its right of impeachment, but to me it would seem most clear that the right to inquire into the conduct of any officer Constitutionally inheres in and appertains to this House, as the immediate delegates and agents of the people, who expect from their Representatives a vigilant superintendence over all their public concerns.

An honorable and very venerable gentleman from Pennsylvania (Mr. SMILIE) has said that inquiries such as are contemplated by the present motion are confined to civil officers only. Without going at large into this doctrine, will that gentleman allow me to state to him a case, and ask of him how he would act in it. I know he is incapable of any other than a candid answer. Suppose, then, the United States, in a critical emergency, had embodied an army of fifty or an hundred thousand men, and its commander was suspected of traitorism or corruption, would the gentleman, under such circumstances, appropriate money and vote supplies for such a General, or for an army commanded by him? I do not attempt to show, that in point of enormity, the case of General Wilkinson bears any proportion to the case which I have supposed very possibly might exist. The principle however in either case is precisely the same, and I make no doubt the worthy gentleman, in the case which I have imagined, would consider an inquiry necessary, with a view to appropriation; for I know he would not vote supplies for an army to be commanded as the one I have mentioned. On Constitutional principles, therefore, I have no doubt whatever but we have a right to make this inquiry.

The question then occurs, will this right be judiciously and discreetly exercised in the adoption of the resolution? The steps which were taken at the last session on this subject were insufficient and incomplete. If it was right to commence the inquiry, it is much more so to conclude it, and the resolution is only designed to consummate the investigation. In this view, then, I think it ought to be adopted. But, sir, in my opinion, we ought to proceed in this inquiry as an act of justice to General Wilkinson. Some of the testimony which has been taken may have an unfavorable bearing on that officer—it was *ex parte*. He had no opportunity of confronting his accusers. The present resolution, with the amendment of the gentleman from Georgia, (Mr. TROUP,) will lead to a full and fair examination;

and under it General Wilkinson will have that opportunity—a right which I thought at the last session ought to have been yielded to him. Is it not better, therefore, that the whole truth should be known. Perhaps the very next deposition that may be taken will contain evidence in favor of the accused. If so, should we be warranted in excluding it? I think not.

I will avail myself, Mr. Speaker, of this occasion to advert to an imputation which has been made against this body in relation to the present subject. It has been often alleged, and has been suggested in debate to-day, that General Wilkinson is persecuted by this House. I, sir, have no hesitation in protesting against this insinuation. For all the actions of men we must look somewhere for motives. Where there is persecution there must be some design; and wherein, let me ask, can, according to any human probability, exist the inducements for this numerous assembly, collected from the various sections of this extended country, to combine and confederate against a single individual, occupying the sphere of a Brigadier General? Sir, when the thing is examined, it will appear at once irrational. I do not believe it. As for my own part, while I at this time forbear to give any opinion as to either the guilt or innocence of General Wilkinson, I disclaim any disposition to treat him with injustice. I feel no sentiment of enmity towards him; I only wish a fair disclosure of all the circumstances respecting the charges against him, and, when the evidence shall have been fully developed, I will then decide impartially upon it.

Mr. PEARSON said he should not have addressed the Speaker, had it not been for the observations which fell from the gentleman (Mr. Root) from New York. That gentleman appears desirous of suppressing an important part of the inquiry contemplated by the present resolution—a part, too, which has already undergone considerable investigation by the committee of the last session, and upon which more evidence has been reported than either of the other points of their inquiry. A volume of testimony has been collected, tending to prove the connexion of General Wilkinson with the agents of Spain—testimony important in its nature, and which has been almost providentially preserved. Is this alleged offence so trifling or the evidence so imperfect as to be totally disregarded; or does the gentleman suppose or wish, by striking off that part of the resolution to which his observations refer, to put to rest all future investigation, and quiet the public mind on a theme which has excited so much sensibility and so much indignation?

The gentleman, however, has stated that this is an old affair; that the administrations of Washington and Adams had some knowledge of it; that the Spanish connexion, if any existed, had long been at an end, and therefore it ought to be consigned to oblivion. He has also thought proper to state that Colonel McHenry, former Secretary of War, had received private letters on the subject of Wilkinson's connexion with the Spanish Government; that those letters were not deposited in

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the War office, and that no investigation did take place. It is true, sir, that this is an old affair—at least it had its origin many years ago—but that it has long been at an end is not equally certain; indeed, the documents before me—the report of the committee of last session—afford strong, if not incontestable evidence, of the existence of this Spanish connexion as late as the year 1804.

[Here Mr. P. read extracts from the depositions of James M. Bradford of New Orleans, Isaac Briggs, and William Simmons, Esq., Accountant of the War Department.]

From these depositions it appears, that in the year 1804, General Wilkinson expended about ten thousand dollars in the purchase of sugars at New Orleans; that this circumstance excited some suspicion as to the manner of General Wilkinson's obtaining so large a sum of money. He was questioned on the subject, and alleged that he had received it from Lieutenant Taylor, then military agent, for drafts on the United States. The Accountant of the War Department expressly states, that no such drafts were drawn, and that the only money that he appears to have received from Taylor, at any time, was three thousand dollars in April, 1804. Mr. Briggs, however, states that General Wilkinson did admit that he had received about the sum of ten thousand dollars, of a late Mexican coinage, in Campeachy bags, from the officers of Spain, but that it was due to him on account of former mercantile contracts with the Spanish Government.

Thus, sir, it appears that this "old business," as the gentleman terms it, has been continued, at least, to the year 1804. But, sir, had it ended at a period as distinct as its commencement, is it, therefore, expiated by the length of time? Does the statute of limitation bar an investigation? Is there a period when crimes are to be forgotten, and punishments not to be thought of? If so, I trust the period has not arrived, and the antiquity of the subject, hidden as this has been, adds additional claims to investigation. And the gentleman, by introducing his remarks, has afforded a strong reason in favor of our adopting the resolution in its present form. As to any information which may have been given to the two first Administrations, as far as I am able to understand, it was of that uncertain and questionable kind which could not, probably, lead to any certain result. It is, also, true, that information was given on the subject to Mr. Jefferson whilst President, and nothing was done, except, indeed, the mock court of inquiry, in 1808, which resulted in less than nothing. Not a record of their proceedings is now to be found, and the person accused has been permitted to pocket the papers. Part of these were, indeed, obtained from General Wilkinson, by the committee of last session, but they were deemed by the committee so unimportant and irrelevant (with the exception of A. Elliott's deposition, which was taken on the part of General Wilkinson,) as not to deserve a place in this report.

As to the private letters, which the gentleman has alluded to, in the possession of Colonel Mc-

Henry, I feel it my duty to remark that Colonel McHenry was summoned to attend the committee at the last session; that he produced several letters which were addressed to him in his private capacity, from persons in the Western country, stating their suspicions of General Wilkinson's connexion with the agents of Spain; those letters were laid before the committee, and they were allowed to use them as they thought proper. The committee (of which the gentleman from New York was a member) unanimously determined that those letters were not at all material to their inquiry, and it was deemed unnecessary even to take copies of them, which were frankly offered by Mr. McHenry. I think it, also, proper to state that Colonel McHenry informed the committee that the then Administration were not free from suspicion as to the purity of General Wilkinson; but, as mutual criminations were made by General Wayne and General Wilkinson, the Executive had directed an inquiry against General Wayne, and intended, at its termination, to proceed against General Wilkinson, but the death of General Wayne, and the change of Administration, prevented this determination from being carried into effect. If it should be that those who have gone before us have not done their duty, let us do ours.

Mr. Fisk said as it was his intention to give a different vote upon this question from that which he had given at the last session, he would state some of the reasons which had induced him to change his opinion. Whenever, said he, I have reflected upon the vote I gave upon that occasion, I have been more dissatisfied with it than with any vote I ever gave before or since. A similar resolution to this did pass this House during the last session, without much discussion, and by a large majority. It was referred to a committee, who, after much investigation, reported. What more was done, or what more, indeed, can be done by this House in relation to this subject, I am unable to say. And, without questioning the constitutionality of this proceeding, it may be inquired what good is to result from it? What is its object? And unless gentlemen will point out the probable benefit of this inquiry, and specify some object to which it is to be directed, why shall we go into it?

But, sir, it is not, in my opinion, perfectly clear and settled, that the Constitutional powers of this House do extend to inquiries of this nature. For, no one will pretend that it is a power to be found among those specifically delegated to Congress by the Constitution. If we do possess the power, it is by implication. And for what purpose is it implied? May it not, sir, well be questioned, whether the Constitution has delegated to Congress power to act in any case in which that act shall not be effectual and conclusive; in any matter in which their acts create no obligations, or impose no duty? If we proceed to the utmost extent contended for in this case, whose rights will be concluded by anything we shall do? Shall we impose an obligation, or enjoin a duty upon the President, or the officer into whose

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conduct it is proposed to inquire? Certainly not. Then, sir, for what purpose this laborious, expensive inquiry?

If the Constitution warrants us to make an inquiry of this kind, in any case, it must be on some great, urgent, and serious occasion; at a time when some evident danger may be averted by it, and some obvious good result from it. These investigations are not to be lightly instituted, for we may readily imagine cases in which such an inquiry as is now proposed would be productive of the most serious and fatal consequences, not only to the individual, but to this nation. When the inquiry commences, the officer is to be notified to attend. He is to be heard before the committee in his defence. This supposes the presence of the officer, and if he is not here, he is, I presume, to be ordered from the Army and his command to appear before us; any orders he may have from his superior officer to the contrary notwithstanding. He cannot, during the investigation, if it last two years, as this has, or will, if this resolution pass, be tried by any other tribunal, suspended, or cashiered; because it will not be contended even that any two tribunals of concurrent jurisdictions shall, in this country, proceed at the same time to try the same person for one and the same offence. For, if one should acquit, and the other convict, the accused is certain to be punished. To suspend or cashier him would be to prejudge his cause. He must, then, be retained in the service, whether guilty or not, till Congress shall proceed (and all large bodies move slowly) to determine their opinion upon the committee's report.

But suppose, sir, this House should, after their inquiry, form an opinion highly unfavorable to this officer, and even express that opinion in the form of a resolution, charging him with a violation of the orders of the Secretary of War. Has this officer not a right to deny the charge, and demand a trial by a court of inquiry, or a court martial? Certainly he has. If that court has a right to try, it has to acquit. Suppose it acquit the accused of the charge; to which must he submit? Shall he be acquitted by a court martial for a charge touching his conduct as an officer, and, after that acquittal, be removed by the President, and thus disgraced and sacrificed, because this House have expressed an unfavorable opinion concerning him, which opinion a competent tribunal to decide shall have declared to be incorrect and unjust? Really, sir, this is supposing no extreme case, but a case which may occur; and, if it should, in what manner would our proceedings be viewed by this nation? The rigorous and cruel operation of the precedent we are about to establish by adopting this resolution, may be such as cannot and will not be borne by the citizens of this community.

Why, then, sir, shall we be pressed into it? Nothing effectual and beneficial can result from it to the nation during this Congress, if ever. The scene of action is at a great distance. The inquiry is vastly extensive. Your committee are to inquire generally into the conduct of General

Wilkinson, and to send for persons and papers. To send where, but to New Orleans, the Mississippi Territory, and to places more distant? Is it expected that evidence can be procured from these places, examined, reported, and acted upon by this House before the fourth of March? It is impossible. In what, then, is all this proceeding to result but in an expense of the time of this House, and the money of this nation? At the last session, this inquiry was commenced, and, when Congress adjourned, it was left unfinished, and this is to be its fate the present session. We shall but leave it for the next Congress to finish or neglect, as they, in their wisdom, may decide. Therefore, sir, without expressing any opinion upon what may be called the merits of the case—the conduct which is to be the subject of this inquiry—I am decidedly opposed to the adopting of this resolution. It is recording a precedent, the constitutionality of which may be seriously questioned; the influence and operation of which, in other cases, and upon other occasions, if not in this case, may be productive of mutiny and disorder in your armies, embarrassment to the Executive, and of oppression and ruin to the individuals who may have the misfortune to be subjected to it. Let general rumor and common fame accuse any officer, however distinguished by his services, or honored with confidence, if this House direct an inquiry, the trial must be tremendous to that individual, although we have neither the power to acquit or convict him. It ought not to be instituted, unless there is, at least, a prospect that it may be concluded by the same Congress who commence it; which, in this instance, cannot be expected. It is to be a trial without end, and the officer, whether guilty or innocent, is neither to be dismissed, punished, or restored to his command, but, to remain in pay to defend his conduct for twenty years of his life, till Congress are ready to express an opinion, in answer to common fame, concerning him. And, as we cannot pretend to do more than express an opinion, I am willing to forbear even that, and vote against the passage of this resolution.

Mr. MACON said he was sorry that they had changed the form of the resolution. If he had been in the House at the time it was done, he should have objected to it, because the General could as well have attended that committee without a summons as he did last session the committee appointed to inquire into the state of the Army. It could not be possible, in the nature of things, that any committee which had been appointed could have refused to hear General Wilkinson if he had wished to have been heard. Mr. M. said he would not give any opinion as to the guilt or innocence of General Wilkinson. He wished not only him but every man in the nation to be innocent, and more particularly did he feel this wish in relation to one who had gone through the Revolution with as much honor as General Wilkinson did. Whenever such a man was convicted of any species of crime, it lessened the national character, which ought to be dear to every man. It was impossible that there could

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be anything like persecution in this case. Of what materials must a man be composed in this country, who was desirous of persecuting a man that went through the Revolution with glory? Every one must wish him to be innocent.

Upon the whole, Mr. M. said he should vote for the resolution, though he disapproved of part of it. He said it seemed to him as though it would be something like a censure on the former committee not to pursue the inquiry.

The Constitutional question he considered as settled. It had been again stirred, however, and gentlemen who last year had thought the inquiry Constitutional now seemed doubtful. But it had been said, that if they had the Constitutional power to inquire, it was a power which should not be exercised unless on great occasions, especially at a time when no man can tell how long the nation will now be in peace. If this were not one of those questions which demanded an immediate inquiry, he should like to know what was. What the President might have intended to do, Mr. M. said he knew not, unless from what had been suggested to-day. But whatever the President might do was nothing to him. If he wished his intention to be known to the House, he ought himself to communicate it by a message in writing. To whom did the Army belong? Was it a National or Executive army? It was the army of the nation, and the Legislature had a right to inquire into the state of it. If it was the army of the Executive, as in Monarchies, where the King can say my army, my navy, and everything was of the Executive and not of the nation, then he would admit that the House had not the right of inquiry. Suppose Aaron Burr had been Commander-in-Chief, and they could not have got clear of him in any other way; would not Congress have been justified in withholding his pay and that of the army? If they had not done so, they would have deserved the halter he was preparing for them. Everything belonging to appropriation, Mr. M. said, was peculiarly the property of this House; and in times of old the Republicans had been so tenacious of the rights of this House that they did not like an appropriation to originate in the Senate.

Another objection to the inquiry was, that it would not be completed within the session. This objection, Mr. M. said, would go to a vast many things at every second session of Congress. If it could not be finished, it might progress. A man who waits for lucky days on his plantation scarcely ever makes anything. It had been said too that the inquiry was *ex parte*. Was it more so than everything else in the House? Was it more so than the inquiry into the sickness at New Orleans—and yet no complaint had been made on that head. If the committee appointed on this subject had in view to take testimony to exculpate Wilkinson, they would, in Mr. M.'s opinion, not only deserve censure but expulsion. In every case of inquiry occurring in the House testimony was taken as it was last year and as proposed now. The argument of expense was equally weak. It was not the expense of inquiry,

or even of the civil list, which made the nations of the earth groan under taxes too burdensome to be borne. It was something far different—it was armies and navies—the force which enabled some men to rise to greatness on the liberties of their country. It is these which produce taxes. The civil list and the expenses of inquiry are scarcely a drop in the bucket. It so happens, that we, like all other nations, make more to do about little expenses than about millions. If we cannot get along with this expense, we ought to put down some establishments much more expensive and certainly of no very great benefit. There are perhaps, even on the civil list, useless offices enough, if put down, to save sufficient to pay all the expenses of inquiry. He meant the loan officers of the different States. None of the objections to it having weight on his mind, he said he should vote for the resolution.

Mr. PITKIN said he rose simply to call the attention of gentlemen to a part of the report of a committee at the last session; about which he had heard nothing said as yet. It was that part relating to the mode of General Wilkinson's obtaining money from the public Treasury; not only, as it appeared to him from the documents, contrary to the Constitution, but directly contrary to every principle of law—and this was a part about which he presumed there was no question of the right of the House to make inquiry. And he thought, if gentlemen had read the report of the committee, it would be impossible for them, as guardians of the people's money, to hesitate to vote for further inquiry on the subject. That committee had before them, among other depositions, that of the Accountant of the War Department—and Mr. P. undertook to say, that it appeared from that deposition and the documents accompanying it, that General Wilkinson had got into his hands and still held thousands and tens of thousands of dollars of the public money, contrary to law. Mr. P. here quoted the deposition of Mr. Simmons on the subject. General Wilkinson had also, he said, drawn money from the Paymaster of the Army contrary to law; for which he had given only his receipt, and for which he had never accounted. He called the attention of the House also to another fact. It was stated by the Accountant of the War Department, that General Wilkinson had seen fit to direct the payment of money from the Treasury for the freight of his own flour from Baltimore to Charleston and Havana, during the time of the embargo. He had certified an account to be correct, and ordered the payment of the money, for the freight of a cargo of flour which was afterwards carried to Havana and there distributed by himself. Mr. P. wished to know whether it was understood that General Wilkinson was authorized to draw money from the Treasury for the freight of his own property from one part of the United States to another? Another thing in these documents, Mr. P. said, he would call the attention of gentleman to, of three or four years standing—to the case of General Wilkinson's directing payment out of the

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public money for the transportation of three or four thousand pounds weight of what was called his baggage to Pittsburg; loading therewith three or four wagons. Mr. P. quoted the deposition of Captain Peter, stating that payment had been made for the transportation of his private property by the public agent. Now he wished to know of gentlemen, if these depositions were correct, (and they had never been contradicted,) whether the House ought not to proceed in this inquiry? Ought they not to give to General Wilkinson at least an opportunity to refute them? And was it not their duty to inquire whether this money had been applied agreeably to law?

He said he could not refrain from calling the attention of the House to one other fact in relation to illegal drafts of money from the Treasury. It was a charge for horses purchased for the United States. [Mr. P. quoted the documents on this subject, relating to an alleged purchase of horses unnecessarily and at an extravagant price for the public service, in the sale of which it is insinuated in one of the depositions that the General was himself interested.] If the House are not to inquire into these things, (said Mr. P.) why let us all have an equal chance with the Commander of the Army, to freight our flour, transport our goods, and sell our horses. If these facts, stated in the documents, are true, on that ground, if on no other, we ought to prosecute the inquiry, and ascertain whether money is thus to be drawn from the Treasury contrary to the Constitution, and to law.

The final question on the resolution was decided as follows:

YEAS—Joseph Allen, Lemuel J. Alston, Willis Alston, jr., Ezekiel Bacon, William T. Barry, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, William Butler, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, James Cochran, Richard Cutts, John Davenport, junior, Joseph Desha, William Ely, James Emott, Meshack Franklin, Barzillai Gannett, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Gurdon S. Mumford, Thomas Newton, John Nicholson, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Thomas Sammons, Adam Seybert, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Charles Turner, junior, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, James Wilson, and Robert Witherspoon.—79.

NAYS—William Anderson, David Bard, Adam Boyd, Robert Brown, Joseph Calhoun, William Crawford, William Findley, Jonathan Fisk, William Helms,

James Holland, Jacob Hufty, John Love, Aaron Lyle, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, John Porter, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Samuel Shaw, John Smilie, Henry Southard, Richard Stanford, John Taylor, Uri Tracy, Robert Whitehill, Richard Winn, and Robert Wright.—35.

Mr. TROUP, Mr. SAGE, Mr. WILSON, and Mr. BRECKENRIDGE, were then appointed the committee.

WEDNESDAY, December 19.

On motion of Mr. BASSETT,

*Ordered*, That the petitions of Amilie Eugenie Beaumarchais, heir and representative of the late Caron de Beaumarchais, deceased, by J. A. Chevallie, her attorney, presented the twenty-fourth of December, 1805, and the second of April, 1806; together with the Message of the sixth of February, 1807, from the President of the United States, and a report from the Secretary of State, of the fourteenth of December, 1807, upon the subject of the claim of the said representative, be referred to the Committee of Claims.

Mr. JOHN SMITH presented a petition of John Brumbach and others, of the State of Virginia, stating, that, in consequence of the renewal of the patent granted to Oliver Evans, for an improvement in mills for manufacturing flour, they have been and will be subjected to much inconvenience and expense in having, after the expiration and prior to the renewal of the patent, used the said improvement, and praying that Congress will exempt them, and all others similarly situated, from all damages which the said Evans may recover against them, and that they may continue to use the said improvement free of expense.—Referred to the committee appointed, on the twelfth instant, to inquire what alterations are necessary in the acts respecting patents.

Mr. MORROW, from the Committee on the Public Lands, presented a bill providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana; which were read twice and committed to a Committee of the Whole on Friday next.

On motion of Mr. JENNINGS,

*Resolved*, That a committee be appointed to inquire into the expediency of extending the United States' road from Vincennes, Indiana Territory, to the Western boundary of the county of Dearborn, in the said Territory, so as to meet the State road from Chillicothe, in the State of Ohio, to the Western boundary of said State; with leave to report thereon by bill, or otherwise.

Mr. JENNINGS, Mr. KNICKERBACKER, and Mr. THOMPSON, were then appointed the said committee.

Mr. EPPES, from the Committee of Ways and Means, to whom was referred the President's Message of the twelfth instant, presented a bill making an additional appropriation for the relief and protection of distressed American seamen; which

was read twice and committed to a Committee of the Whole on Friday next.

Mr. EPPES, from the same committee, also presented a bill to continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" which was read twice and committed to a Committee of the Whole on Friday next.

*Ordered*, That Mr. TROUP be excused from serving on the committee appointed yesterday, to inquire into the conduct of General James Wilkinson, and that Mr. BIBB be appointed in his place.

A motion was made by Mr. LOVE, that the House do come to the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House information, first, of the amount of debts due from individuals and bodies corporate to the Bank of the United States, distinguishing the amount due by bond, mortgage, or other specialty, from that payable by notes, bills of exchange, or other surety, not under seal to the said bank and its branches, and what portion of said debts are considered as standing accommodation to the customers of said bank and its branches: Second, of the amount of notes of the said bank and its branches now in circulation: Thirdly, whether the revenue of the United States, or what portions of it, are ordered to be deposited in the said bank and its branches; whether any portion of it is ordered to be deposited in other, and, if so, what other banks; and what will be the probable amount of deposits in favor of the United States, in any of the said banks or their branches, and which of them, on the first day of March, in the year one thousand eight hundred and eleven.

The resolution was read, and ordered to lie on the table.

Mr. GOLD, from the committee appointed on the fourteenth instant, presented a bill to authorize the Secretary of War to ascertain and settle, by the appointment of Commissioners, the exterior line of the public land at West Point, with the adjoining proprietor; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. EPPES presented to the House a report from the Secretary of State to the Committee of Ways and Means, of the application of the moneys appropriated for the relief and protection of distressed American seamen; which was read, and ordered to lie on the table.

Mr. VAN HORN, from the Committee for the District of Columbia, presented a bill for continuing the charter of the Bank of Alexandria, in the District of Columbia; which was read twice and committed to a Committee of the Whole on Friday next.

The House resolved itself into a Committee of the Whole on the bill fixing the compensation of the additional Assistant Postmaster General.

On motion of Mr. EPPES, the blank in the bill for the salary was filled with "\$1,600."

The Committee rose and reported the bill as amended; which was ordered to be engrossed for a third reading.

## STATE OF THE ARMY.

Mr. NEWTON said it would be recollected that the report of the committee appointed at the last session, to inquire into the cause or causes of the mortality in the army at New Orleans, owing to the late hour at which it had been introduced (the 27th April,) was not acted upon; he would, therefore, move that the report be referred to a Committee of the whole House.—Agreed to, 67 to 17.

Mr. SMILIE hoped that the vote on the reference might be reconsidered; as he considered it a procedure totally without precedent, that an unfinished act of the last session should be made the subject of reference in this informal way.

On this question of order, considerable debate took place; in which Messrs. SMILIE, PITKIN, WRIGHT, TAYLOR, W. ALSTON, and SOUTHARD, advocated the reconsideration, and Messrs. NEWTON, MILNOR, and MILLER, opposed it. The question was decided in favor of reconsideration; 49 to 39.

The question being taken on the reference of the report to a Committee of the Whole, it was lost.

Mr. NEWTON moved to refer it to a select committee.

This motion was declared to stand on the same ground in point of order as a motion to refer to a Committee of the Whole.

Mr. NEWTON then introduced the following resolution:

*Resolved*, That a committee be appointed to inquire into the cause or causes which produced the great mortality in the detachment of the Army of the United States, stationed at New Orleans, and that they have power to send for persons and papers.

Mr. TAYLOR moved an amendment to the resolution, which went to refer the consideration of this subject to the committee yesterday appointed to inquire into the conduct of General Wilkinson. He made this motion with a view, as General Wilkinson was evidently as much the object of this inquiry as of the other, that two committees should not sit at the same time for the same purpose; that two torturing irons should not be applied to the victim at the same time. Messrs. NEWTON, FINDLEY, and BACON, opposed the amendment offered by Mr. TAYLOR, on the ground that the subjects of inquiry were separate and distinct. It was not agreed to.

The question on the resolution of Mr. NEWTON was decided in its favor, yeas 66; and a committee of seven was appointed.

Mr. NEWTON, Mr. COCHRAN, Mr. WINN, Mr. MUMFORD, Mr. CRAWFORD, and Mr. CHAMPION, were then appointed a committee, pursuant to the said resolution.

## THURSDAY, December 20.

A motion was made by Mr. JENNINGS, that the House do come to the following resolutions:

*Resolved*, That it is expedient that the Executive authorities of the several States and Territories, of the United States, respectively, should be authorized and

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directed, by law, to apprehend, secure, and deliver to the Governor of the Indiana Territory, for the time being, or his agent, any fugitive or fugitives from justice, upon demand being made of the Executive authority of any such State or Territory to which such fugitive or fugitives shall have fled, and upon producing an indictment found, or an affidavit made, before a magistrate of said Territory, charging the person so demanded with having committed treason, felony, or other crime, within the jurisdiction of the same.

*Resolved, likewise,* That it is expedient that any person holding an office or offices of profit or trust from the Governor of the Indiana Territory, (justices of the peace and militia officers excepted,) should be, by law, declared ineligible to and disqualified to act in either the House of Representatives or Legislative Council of said Territory, as members thereof, until such office or offices shall have been resigned, and such commission, with the resignation, shall have been transmitted to the office of the Secretary of the Territory aforesaid.

The resolution was read, and ordered to lie on the table.

An engrossed bill to fix the compensation of the additional Assistant Postmaster General was read the third time, and passed.

The House resolved itself into a Committee of the Whole House on the bill for the relief of George Armroyd and Company.

No amendment being made, the bill was ordered to be engrossed, and read the third time tomorrow.

Mr. VAN HORN, from the Committee for the District of Columbia, presented a bill to incorporate the subscribers to the Bank of Washington; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. BASSETT, from the committee appointed the nineteenth instant, presented a bill to incorporate the Protestant Episcopal Church in the town of Alexandria; which was read twice and committed to a Committee of the Whole on Tuesday next.

#### AMENDMENT TO THE CONSTITUTION.

On motion of Mr. MACON, the House resolved itself into a Committee of the Whole on the state of the Union, on the motion introduced by Mr. MACON, for adding to the Constitution the following article:

"No Senator or Representative, after having taken his seat, shall, during the time for which he was elected, be eligible to any civil appointment under the authority of the United States, nor shall any person be eligible to any such appointment until the expiration of the Presidential term, during which such person shall have been a Senator or Representative."

Mr. RHEA said that this amendment would go to curtail the privileges of our citizens, and to introduce an innovation of the Constitution. For these two ample reasons he moved to amend it by striking out the following words: "nor shall any person be eligible to any such appointment until the expiration of the Presidential term, during which such person shall have been a Senator or Representative."

Mr. MACON defended his proposition and op-

posed Mr. RHEA's motion. He said that the objection to his proposition because it was new, was not sound, if the motion was reasonable in itself. The amendment went to complete the intention of the framers of the Constitution, which was that no member of Congress should be appointed to any office. It would prevent party spirit from going too far for office; from making places when going out of office, to secure to itself some sort of power in other departments, when it could not retain it in the Legislature. As to depriving men of their right by coming to Congress, it was an empty argument; according to which the Constitution deprived men of their right by prohibiting a member from holding an office whilst in that capacity, or from serving in any office created while he was a member. But in what respect would this restriction affect the community? Could not offices as well be filled out of Congress as in it? Congress had already legislated as far as in their power on this subject by passing a law to prevent contractors from holding a seat on this floor.

The independence of the Legislature was the object. If there was no covetousness of office, if human nature was perfect, we should want no laws. But laws become necessary to check the frailties of our nature, and this provision would serve to repress the inordinate desire of man for office. Indeed, said he, it is as necessary almost to guard against a virtue as against a vice. Take the case of a man who has long been in Congress, whose worth all acknowledge, about to retire, and we know that he has not wherewithal to support himself—we should almost, forgetting our duty to the Constitution, be willing to make a place expressly for him.

Mr. M. said, it appeared to him that nothing could be more incorrect, as related to the independence of the Legislature, than for men to be sitting here, knowing that when they retired they were to have an office. Knowing that they were to have it, was not worse than wishing to have it; because in either case the independence of the expectant was destroyed. The practice of bestowing offices on members of the Legislature had already obtained to an extent not before known. It was a practice pleasing to members, and it would grow. Suppose any member wanted an appointment, and should go to his friends and get recommendations from twenty, thirty, or forty of them. Would it not operate almost as a command on the Executive, when he saw a majority of the Legislature declaring that this man ought to have an office? If he were to refuse he would soon feel the consequences.

Believing the purity of the Legislature to depend on the existence of such a provision as he had proposed, Mr. M. said, he could not consent to strike it out. Everything, said he, depends on the Legislature. Make the members of the Legislature office-hunters, and you make the nation so. If the Executive archives could be consulted, it would be seen that the applications for office in the nation at large had progressed much in the same proportion as those from the members

of Congress. And is it not natural, sir, that the people who send a man to Congress, seeing him provided with a snug place, would want the same thing? I am willing to extend the principle; I am almost willing to go as far as upon the jury principle in trials for life. I am willing not only to exclude ourselves, but to exclude our kindred. Could anything be more mortifying, Mr. M. asked, than to see every little appointment in the nation given to the Legislature? To him it was a mortifying circumstance. He could mention names; but that it was always painful to him to do so. He had seen this practice growing with our growth; and, if not checked, it would come to be one of the greatest of evils. If the gentleman from Tennessee could demonstrate that there was such a poverty of talent in the nation, that, by the exclusion of members of Congress from office, the business of the nation would be arrested, he would vote for his motion, and not otherwise.

It had been said that the proposed amendment to the Constitution went to deprive the citizen of his right. It appeared to Mr. M. that this right of office was not a good thing. He knew that no man in the House was farther from office-hunting than the gentleman who made the motion—his remark applied to the subject, and had no particular application to men. If experience had not convinced gentlemen that something wanted doing, he despaired of convincing them. He hoped the motion would not be agreed to.

Mr. BOYD said that of the Republican principles of the gentleman last up, he had no doubt; but these principles might be carried too far to support themselves. The gentleman's argument supposed that the ability of those persons sent here being known to the President, they, therefore, ought not to be appointed to office. The argument was, because a person was recommended to office by the best men in the nation, he ought, therefore, not to be appointed. It went upon the supposition that the President, an officer chosen from the people for his superior virtue, would appoint venally. But let us beware, said Mr. B., of tinkering the Constitution. From the very innovation which the amendment proposes, I should oppose it; because it is necessary to the life and vigor of the Constitution that we meddle with it as little as possible. By so frequently altering the Constitution, we shall keep the people in a perpetual ferment, not knowing whether they have a polar star or not.

Mr. BURWELL considered the part proposed to be struck out as the most valuable part of the amendment. If that were struck out, there would be hardly any part of it worth retaining. This question, he said, was particularly fortunate for those composing the majority of Congress. It furnished them an opportunity to convince the world at large, that they were not governed by mercenary motives; that the course they pursued was dictated by their judgment alone. What could tend more to reconcile all parties in the nation, than a perfect confidence that no sinister motives governed the vote of any member of this

House? And who could charge any member with corrupt motives when the Constitution had precluded him from office? This was indeed an occasion at which gentlemen ought to rejoice, as it would show the disinterestedness with which they supported the present or future President of the United States; and that, in giving their suffrage for a President, they were not influenced by interested motives. Mr. B. was willing himself to give this pledge.

The objection of the gentleman from Tennessee that this provision would abridge the privileges of the members, was entitled to very little weight indeed. The Constitution had already in this way abridged their privileges. It had already disqualified the members of Congress in a certain degree from holding office; this proposition went to extend the principle. The strength of a Government like this depends in a great degree on the confidence of the people in those who for the time being control its operations. He trusted that a majority of this House would prove to the people and to the world that they were governed by the purest motives. He called the attention of the House to the British Government. Was it not notorious, he asked, that whoever was prime minister could always command a majority in Parliament? Had it not been frequently seen that men one day in a small minority, could the next day, when raised to office, wield a majority of the same men as had before opposed them? What did this arise from? Was it not from the influence of the Treasury, not only on the borough part of the House of Commons, but on that part elected by the people themselves, the Government in the latter case acting not only on the Representative but on the people whom he represented? This example showed the importance of guarding at an early day against a similar corruption here.

There was but a single objection, in the opinion of Mr. B., to the adoption of the resolution—that gentlemen who were members of the House, whose talents and personal deportment might be known to the Executive, might advantageously be selected to office. But could the Executive have a thorough knowledge of such persons? Were there not reasons to induce them to hide their motives and character, and, desiring office, to regulate everything they said or did by their views to that object? Mr. B. said, he had himself supposed that talents were dispersed in every part of the Union, and that nothing was more absurd than to suppose that only one individual in the nation was competent to fill any office. Characters for office might be found in every part of the nation equally as fit and as well qualified as those who came here. Another consideration had great weight with him. However the Constitution might have guarded against the influence of members of Congress, it was nevertheless a fact that members, from their situation and knowledge of the nation at large had more influence than any individuals scattered through the country. There were few men of so much celebrity, so great talents, whose transcendent



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worth was so generally acknowledged that they were extensively known through the community. There was scarcely an individual, that had not been in Congress, that was known out of the State in which he resided. What was more important, he asked, in the selection of a person to fill the Chief Magistracy, than to make the members of Congress as impartial as possible, and to induce them to inquire accurately into the character of the person proposed for that high office. This was a time, in his opinion, when they should fortify themselves against the danger apprehended, and justly apprehended, by the gentleman from North Carolina. Mr. B. said he hoped there was virtue enough in this House to sanction this principle, although the gentleman from Tennessee supposed it would abridge the privileges of the citizen. It was a principle which might secure the purity of this House for many years to come. He hoped, therefore, the amendment would not succeed.

Mr. RHEA said he felt himself under considerable obligations to the gentleman from North Carolina for exempting him from the charge of office-hunting. He did not know that he should ever ask for or hold an office under the Government; but that would not prevent him from saying what he thought on this subject. A material objection against this proposition was one which had not yet been noticed. If it became a part of the Constitution, it would constantly create a powerful league among influential citizens, against the President of the United States, combined to get him out as soon as possible. The framers of the Constitution had completed this matter, as far as necessary, by declaring that no members of Congress should be eligible to any office created, or the emoluments whereof had been raised during the time for which he was elected. He had no objections to that part of the resolution which went on that ground; but he believed it should be with serious deliberation that anything like the remainder of the proposition was adopted. He was willing, without sacrificing his ideas of propriety and expediency, to leave to the world to judge of the propriety of his motives. The vote on this proposition would be but a bad criterion. His conduct should be judged by his votes in general, and not on this proposition. If such a vote as this was to purify all bad qualities, the Legislature which had taken the head of Charles the First, alluded to by the gentleman from North Carolina, might have passed this vote, and thus absolved themselves of the wrong they had done. If they went on in this way altering the Constitution, its form would in time be so much changed that the people would not recognise it. Instead of strengthening the principles of freedom, they might be frittered away till they were lost in chaos. Amendments ought to be made with a sparing hand. In the opinion of Mr. R. the present mode of election secured the purity of the House as far as the gentleman could desire. There were but two States in the Union in which Representatives were not elected long before their term of ser-

vice commenced; during the whole of which time of probation they were precluded from office.

Mr. SMILIE made some observations favorable to the motion of Mr. MACON. He thought the purity of the representative body was essential to the existence of the Government; that the exclusion from office established by the Constitution was not sufficient, the abuses now being nearly as great as if no such exclusion existed—for there was but little difference in principle between a man's accepting an office, while a member, and his expecting to receive it at the end of the two years he had to serve.

The motion of Mr. RHEA was negatived, yeas 12.

Mr. BACON suggested some amendment in the phraseology of the resolution; and, doubts existing on the subject—

On motion, the Committee rose, and the resolution was, on the suggestion of Mr. SHEFFEY, referred to a select committee, with directions to report their opinion thereon.

Mr. MACON, Mr. PITKIN, Mr. BACON, Mr. SHEFFEY, and Mr. MITCHILL, were then appointed the said committee.

FRIDAY, December 21.

Two other members, to wit: from Virginia, JOHN CLOPTON, and WALTER JONES, appeared and took their seats; a new member, to wit: WILLIAM MCKINLEY, also from Virginia, appeared, was qualified, and took his seat.

On motion of Mr. SOUTHARD,

*Resolved*, That a committee be appointed to inquire into the propriety of passing a law to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses; and that the committee have leave to report by bill or otherwise.

Mr. SOUTHARD, Mr. LEWIS, and Mr. TURNER, were appointed.

On motion of Mr. MORROW,

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the propriety of providing, by law, for the removal of the land office at Nashville, and the land office at Canton, so that they shall respectively be kept within the districts for which they were established; and that they inquire into the propriety of dispensing with the attendance of the Governor of the Mississippi Territory, at the public sales of the public land in the district East of Pearl river, as now directed by law; and that the committee report by bill, or otherwise.

Mr. PEARSON, Mr. QUINCY, Mr. JENNINGS, Mr. MCKIM, and Mr. GARLAND, were appointed the committee.

An engrossed bill for the relief of George Armroyd and Company was read the third time, and passed.

Mr. MORROW, from the Committee on the Public Lands, presented a bill for the removal of the

land office established at Nashville, in the State of Tennessee, and at Canton in the State of Ohio; and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river; which was read twice and committed to a Committee of the Whole on Monday next.

On motion of Mr. BACON,

*Resolved*, That the Secretary of the Treasury be directed to lay before this House a statement of all such sums as may have been paid to the Consuls, Vice Consuls, Commercial Agents, or Vice Commercial Agents of the United States in foreign countries, by the masters or commanders of American vessels, for the purpose of constituting a fund for the relief of destitute American seamen in foreign ports, under the third section of the act supplementary to the act concerning Consuls and Vice Consuls, passed the twenty-eighth day of February, 1803.

On motion of Mr. SWOPE,

*Resolved*, That the President of the United States be requested to cause to be laid before this House such information as he may possess relative to the duties as at present imposed by the Emperor of France, on all articles, the importation of which into the dominions of France is permitted on board of American vessels; and whether all articles, the *produce of the American soil*, will, on their exportation from the United States, obtain a free admission into the ports of France; and, if not, what articles of said produce are prohibited.

Mr. SWOPE and Mr. BLAISDELL were appointed a committee to present the said resolution to the President of the United States.

On motion of Mr. VAN HORN, the House resolved itself into a Committee of the Whole, 44 to 43, on the bill to continue the charter of the Bank of Alexandria.

A desultory discussion arose on the bill, it being objected to it that it barely recited the title of the law which it was proposed to continue, without specifying any of its provisions; and that a law on such a subject, giving exclusive privileges to a corporate body, should be enacted with the greatest precision and caution.

After an hour's discussion, in which Messrs. LOVE, TAYLOR, MILNOR, VAN HORN, QUINCY, TALLMADGE, BACON, SMILIE, and LEWIS partook; on motion of Mr. TAYLOR, the Committee rose and reported progress; and, leave to sit again being refused, the bill was recommitted to the Committee on the District of Columbia.

On motion of Mr. EPPES, the House resolved itself into a Committee of the Whole on the bill making up the deficiency in the appropriation of 1810, for the relief of distressed American seamen in foreign countries. After some detailed statements from Mr. E. of the objects of this expenditure, the blank in the bill for the appropriation was filled with \$75,559 89.

The Committee rose and reported the bill, which was ordered to be engrossed for a third reading.

On motion of Mr. EPPES, the House resolved

itself into a Committee of the Whole on the bill for continuing in force the first section of an act entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

The Committee rose and reported the bill without amendment, which was passed to a third reading without opposition.

On motion of Mr. JENNINGS, the House took up for consideration the resolution offered by him yesterday.

On the suggestion of Messrs. QUINCY and PEARSON, the resolution was so varied as to refer the subject to a select committee, with a view to embrace an inquiry into the general state of the laws relative to fugitives from justice; which, it now stated, were very defective.

Mr. PEARSON, Mr. QUINCY, Mr. JENNINGS, Mr. McKIM, and Mr. GARLAND, were appointed the committee.

### CULTURE OF HEMP.

Mr. SHEFFEY remarked that the interruption of commerce to the Baltic had given a spring to the culture of hemp in this country, which would be much relaxed if the commerce should be opened. He was, he said, one of those who had always considered the encouragement of agriculture as one of the first objects of a good Government. He, therefore, proposed, with a view to ascertain how far it was proper to encourage the culture of hemp, to offer a resolution to inquire into the subject. He did not know how far it would be proper to adopt the measure which he contemplated; he was not advised whether the culture in the United States was sufficient for the consumption. If so, he should feel disposed to restrict the importation from abroad. The Committee of Commerce and Manufactures would be best able to ascertain how far it was proper to protect the culture of our own raw material. He, therefore, submitted the following resolution:

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of encouraging the culture of hemp, by protecting impost duties, or prohibiting the importation of that article into the United States; and that the Committee have leave to report by bill or otherwise.

Mr. MITCHELL said he had no inclination to oppose the passage of the resolution, its object being merely to inquire; and resolutions for inquiry, generally speaking, were those which, of all others, the House ought to pass. He would just mention, however, his perfect conviction that the resources for the supply of this article were ample, and that enough could be raised on the Genessee flats and Walkill river in the State of New York, to supply the north, and in the State of Kentucky, to supply the South. The interruption of commerce with the Baltic, created an extraordinary price, which was bounty enough for the present. How far it might be necessary to extend the principle during free commerce, he did not say.

The resolution was agreed to without a division.

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## TITLE TO LANDS.

Mr. VAN HORN presented the memorial of the United Wabash and Illinois Company, stating, that they purchased certain lands from the Indians in the year 1773, and praying from the United States a confirmation of their title to such part of the same as Congress shall deem expedient. Mr. VAN H. moved to refer the memorial to the Committee on Public Lands.

Mr. McKEE objected to the reference on the ground that it was a subject on which Congress had frequently legislated, and had shown their indisposition to comply with the wishes of the memorialists; and that it, therefore, would be a waste of time to refer a petition on the principle of which the House had so frequently decided.

Mr. VAN HORN replied, that the right of petition was one secured to every citizen by the Constitution; and that the House was bound to listen to their prayers; that this was a subject of great importance to the petitioners, and their claim was one which a committee of Congress had so far recognised, in 1801, as to recommend a compromise of it. Besides, the reference of every petition was a matter of course.

The reference as proposed was agreed to.

And, on motion, the House adjourned until Monday.

## MONDAY, December 24.

Three other members, to wit: WILLIAM HALE, from New Hampshire; BENJAMIN PICKMAN, JR., from Massachusetts; and THOMAS NEWBOLD, from New Jersey; appeared, and took their seats.

Mr. SEYBERT presented a petition of the members of the Chamber of Commerce, in the city of Philadelphia, praying the renewal of the charter of incorporation of the Bank of the United States.—Referred to the committee appointed, on the eighteenth instant, on the petition of the stockholders of the said bank.

An engrossed bill making an additional appropriation to supply a deficiency in the appropriation for the relief and protection of distressed American seamen, during the year one thousand eight hundred and ten, was read the third time, and passed.

An engrossed bill to continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time, and passed.

Mr. HOLLAND, from the committee appointed on the petition of Return J. Meigs and others, presented a bill giving a further compensation to the witnesses who attended the trial of Aaron Burr, before the circuit court of the United States, for the district of Virginia; which was read twice and committed to a Committee of the Whole on Thursday next.

The House went into a Committee of the Whole, on the bill providing for final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Indiana. After some inconsiderable amendments to the

bill, the Committee rose and reported the bill, which was ordered to lie on the table.

On motion of Mr. SHEFFEY,

*Ordered*, That the several memorials and petitions of the late Revolutionary army, presented in December, 1808, and January 1809, be referred to a select committee.

Mr. SHEFFEY, Mr. HALE, Mr. SHAW, Mr. TRACY, and Mr. WILLIS ALSTON, were then appointed the said committee.

On motion of Mr. POINDEXTER,

*Resolved*, That the Secretary of the Treasury be directed to lay before this House such information as he may possess relative to the claim of the Board of Commissioners west of Pearl river, in the Mississippi Territory, to additional compensation for their services; together with his opinion as to the equity of said claim.

The House went into a Committee of the Whole, on the bill authorizing the Secretary of War, by the appointment of Commissioners, to ascertain the exterior line of the public lands at West Point, &c. The bill was so amended as to leave the ultimate decision on the report of the Commissioners to Congress. The Committee reported the bill as amended, which was ordered to be engrossed for a third reading.

The SPEAKER presented a letter and memorial of Peter Landais, praying to be allowed and paid his share of prize money in three vessels captured by him in the Revolutionary war, while commander of the United States' frigate *Albion*.

A motion was made by Mr. MONTGOMERY, that the said letter and memorial be referred to the Committee of Claims; and the question being taken thereon, it passed in the negative.

The SPEAKER laid before the House a report of the Secretary of the Treasury, prepared in obedience to the act regulating the currency of foreign coins in the United States; which was read, and referred to the committee appointed, the fourteenth instant, on the bill from the Senate further to suspend, in part, the act, entitled "An act regulating foreign coins, and for other purposes."

On motion of Mr. BACON,

*Resolved*, That a committee be appointed to inquire into the expediency of providing for the formation and printing of a complete general index to the several volumes of the laws of the United States, as now published, including those which may be passed at the present session of Congress; and that they have leave to report by bill, or otherwise.

Mr. BACON, Mr. MATTHEWS, and Mr. JONES, were appointed.

On motion of Mr. MORROW, the Committee of the Whole was discharged from the consideration of the bill for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of Public Moneys to superintend the public sales of lands in the district east of Pearl river; and it was re-committed to the Committee on Public Lands.

## CLAIMS FOR MILITARY SERVICES.

Mr. MORROW, from the Committee on the Public Lands, made a report on the several petitions of the officers and soldiers, and the heirs of officers and soldiers who served in the British army in America, in the war between Great Britain and France; which was read, and the resolution therein contained concurred in by the House.

The report is as follows:

The Committee on Public Lands, to whom was referred several petitions, claiming lands for military services, performed in the war of 1755, between Great Britain and France, report:

That, considering the subject-matter of the said petitions highly important, on account of the interest it has recently excited, and the speculation it has given rise to in various parts of the United States, the committee have carefully examined the State papers and public documents, of the period of the above war, to ascertain the original foundation of the supposed claim. In pursuing this investigation, the committee have not been able to discover that any engagement or contract whatever was made or entered into by the Government, or under the authority of Great Britain, with the officers and soldiers of the provincial troops, serving in the war aforesaid, for a grant of lands, either as an encouragement to their entering into the service, or as a compensation for services. All that the committee have been able to find on the subject is in a proclamation of the King of Great Britain, of the 7th of October, 1763, (after the closing of the war and disbanding of the troops,) and is in the following words:

*"And whereas* we are desirous, upon all occasions, to testify our royal sense and approbation of the conduct and bravery of the officers and soldiers of our army, and to reward the same, we do hereby command and empower our Governors of the several provinces on the continent of North America to grant, without fee or reward, to such reduced officers as have served in North America during the late war, and are actually residing there, and shall personally apply for the same, the following quantities of land, subject, at the expiration of ten years, to the same quit-rents as other lands are subject to, in the province within which they are granted, as also subject to the same conditions of cultivation and improvement, viz:

"To every person having the rank of a field officer, 5,000 acres.

"To every captain, 3,000 acres.

"To every subaltern or staff officer, 2,600 acres.

"To every non-commissioned officer, 200 acres.

"To every private man, 50 acres.

"We do likewise authorize and require the Governors and commanders-in-chief of all our said colonies, upon the continent of North America, to grant the like quantities of land, and upon the same conditions, to such reduced officers of our navy of like rank, as served on board of our ships of war, in North America, at the times of the reduction of Louisbourg and Quebec, in the late war, and who shall personally apply to our respective Governors for such grants."

In this State paper, the committee can perceive no foundation whatever for the present claim upon the United States. Instead of a contract with the officers and soldiers for land, the proclamation contains a mere instruction to the provincial Governors—an instruction emanating from the munificence of the Sovereign, and for conferring a gratuity, not issued for the satisfaction

of any previous claim or demand upon Government. That the grant intended by the above proclamation was rather a testimony of respect and approbation, than a donation of value, appears from the prescribed terms on which it was to be made, they being the same on which lands were granted to others in the provinces, with the exception, that the military grants were to be made free of office fees, and exempt from payment of quit-rents for ten years. Had application been made to the land offices of the provincial governments, as was the duty of all the claimants, there can be no doubt but that grants would have been readily made to the full extent of the bounty intended by the proclamation, subject, however, to the usual condition for settlement and improvement. Forty-seven years have now elapsed since the foregoing proclamation, during which period the above claims have laid dormant, and the committee do conceive, that, upon fair and just principles, those claims would have been considered derelict and abandoned had the Government, under which they arose, continued; but to admit them against the United States, placed as they now are, under a Government founded on a revolution, which has intervened, is required by no principle of justice, and would, in the opinion of the committee, be an unauthorized disposition and sacrifice of the public property of the United States. On no principle of national law, or by any treaty or convention between the United States and Great Britain, are the United States bound to perform the engagements of the former Government of Great Britain, especially for mere bounties; nor would the purposes for which the several States have ceded land, within their respective jurisdictions, to the United States, warrant the appropriation of those lands for the satisfaction of the claims in question, were the same better founded than by the committee they are conceived to be. The committee, therefore, beg leave to submit the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

## NAVY AGENTS' ACCOUNTS.

Mr. SWOOPÉ said that in the course of the session of Congress held in June, 1809, a report in part had been made by a committee generally called the investigating committee. Among the accounts comprised in this report, he said he had found two which bore mystery on the face of them; a desire to unravel which was the motive for his rising. The accounts to which he referred were those of Degen, Purviance, and Company, Navy Agents at Leghorn. By settlement the first, at the Navy Department, on the 30th June, 1808, the United States appeared to be indebted to them more than \$23,000. By a reference to an account settled in March, 1809, he found that bills to the amount of \$256,000, bearing date prior to the first settlement (viz: from May 1805, to February 1807,) were charged to them. For the purpose of obtaining the means of reconciling these apparent inconsistencies, he moved the following resolutions:

*Resolved*, That the Secretary of the Navy be directed to explain to this House the cause wherefore the several bills of exchange amounting to \$256,000, and of various dates, from May 10th, 1805, to February 21, 1807, were charged in account No. 2, of Degen, Purviance, and Company, Navy Agents, at Leghorn, as

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settled at the Navy Department on the 17th day of March, 1809, and for what reasons the same were not included in the account of the said Degen and Company, which was settled in the Navy Department on the 30th of June, 1808; and also to inform this House whether the said bills were purchased by the then Secretary of the Navy, or by a Navy Agent, if by the latter, that a copy of the said Navy Agent's accounts embracing the period of purchase, also accompany the information required.

*Resolved*, That the Secretary of the Treasury be directed to lay before the House any information which he may have obtained through our Minister in France, in answer to the letter addressed to him on the 26th day of June, 1809, (or from any other source,) relative to the funds which the drawers of bills (from May 10, 1805, to February 21, 1807,) on Degen, Purviance, and Company, Navy Agents at Leghorn, had in the hands of the said Degen and Company, at the time of the transmission of said bills, or, at the time when they were passed to the credit of the United States by the said Navy Agents.

These resolutions were agreed to without opposition.

To-morrow being Christmas day, the House adjourned to Wednesday—62 to 23.

### WEDNESDAY, December 26.

On motion of Mr. MORROW,

*Resolved*, That the Committee on the Public Lands be instructed to inquire what provision ought to be made respecting the location of Virginia land warrants, west of the boundary line designated by the act of the twenty-third day of March, 1804, and that they report by bill, or otherwise.

On motion of Mr. JOHNSON,

*Resolved*, That a committee be appointed to revise and bring in a bill to amend the several laws and parts of laws of Congress, establishing trading-houses with the Indian tribes, and for other purposes of Indian trade and intercourse.

Mr. JOHNSON, Mr. P. B. PORTER, Mr. LYLE, Mr. MCKINLEY, and Mr. STANLEY, were then appointed the said committee.

A motion was made by Mr. MCKINLEY, that the House do come to the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of appropriating a sum of money, not exceeding — dollars, for the purpose of improving the post road leading from Washington City to Marietta, in the State of Ohio, to be laid out under the direction of the President of the United States, and to be repaid out of the fund "for opening turnpike and other roads leading from the waters of the Atlantic to the Ohio river, and to the State of Ohio;" and that they report by bill, or otherwise.

And the question being taken thereon, it was determined in the negative.

The House resolved itself into a Committee of the Whole on the bill for incorporating the Protestant Episcopal Church of the town of Alexandria, in the District of Columbia; and, after some time spent therein, the Committee rose, and had leave to sit again.

Mr. MORROW, from the Committee on the Pub-

lic Lands, to whom was recommended the bill providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl river, reported several amendments thereto; which were read, and, together with the bill, committed to a Committee of the Whole on Friday next.

Mr. BURWELL offered the following resolution, remarking that a similar resolution had been adopted in 1804, and a bill reported, but not acted on from the pressure of other business; and he presumed there could be no objection to providing a remedy in a case where the omission had been entirely by accident. This limitation of time for entering claims, Mr. B. said, was almost unknown in any other country than the United States, and generally affected most severely those who were particularly entitled to indulgence. All those persons who might be supposed to be disposed to defraud the public were always attentive to their interests; but there was a class of honest claimants who were inattentive, and who were generally the sufferers by the act of limitation.

The following is the resolution offered by Mr. BURWELL, which was referred, on the suggestion of Mr. POINDEXTER, to the Committee on Public Lands:

*"Resolved*, That a further time of six months ought to be allowed to claimants to land in the State of Georgia, south of the State of Tennessee, to register the evidences of their titles with the Secretary of State of the United States."

### THURSDAY, December 27.

*Ordered*, That the representation of the Legislature of the State of Georgia, in relation to their disputed boundary with North Carolina, presented the twenty-sixth of April last, be referred to a select committee.

Messrs. BIBB, MACON, CALHOUN, STEPHENSON, and RINGGOLD, were appointed the said committee.

Mr. MACON, from the committee appointed, on the seventeenth instant, on a petition of the Legislature of the Territory of Orleans, presented a bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes; which was read twice, and committed to a Committee of the Whole on Monday next.

The House resumed the consideration of the bill providing for the final adjustment of claims to lands and for the sale of the public lands in the Territories of Orleans and Indiana.

After several abortive attempts to amend the bill, viz. by Mr. POINDEXTER, to insert a provision respecting the mode of taking evidence in relation to land titles; by Mr. BIBB, to strike out so much

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of the bill as gives to settlers on these lands a right of pre-emption; and by Mr. JOHNSON, to add a provision giving an advantage to persons having erected mills on the lands—the bill was ordered to be engrossed for a third reading.

An engrossed bill to authorize the Secretary of War to ascertain and settle, by the appointment of Commissioners, the exterior line of the public land at West Point with the adjoining proprietor, was read the third time, and passed.

Mr. ROOT, from the Committee of Claims, reported unfavorably to the petition of Richard Taylor, and favorably to the petitions of Amey Dardin and Jared Shattuck.—Reports committed.

#### NAVY AGENT AT LEGHORN.

Mr. MONTGOMERY said it would be remembered that on the 24th of the present month two resolutions had been adopted on the subject of bills of exchange on the Navy Agent at Leghorn. He confessed he was much gratified at the subject's having been brought forward, as it had been much agitated in some parts of the United States. He was desirous of a full development of the transaction. He had examined the resolutions, and did not think, from the language of them, that all the information would be procured by them that was desirable. He therefore rose to submit the following resolution, to which he presumed there could be no objection:

*Resolved*, That, in addition to the statement required by the two resolutions of this House, passed the twenty-fourth of this month, in relation to certain bills of exchange drawn on the Navy agents at Leghorn, the Secretary of the Treasury and the Secretary of the Navy be severally directed to lay before this House such further information relative to the case as may be in their possession, and as may be necessary to a full knowledge of the subject.

#### WITNESSES ON BURR'S TRIAL.

On motion of Mr. HOLLAND, the House resolved itself into a Committee of the Whole, on the bill making further compensation to the witnesses attending on Burr's trial at Richmond.

The following is the bill:

*"Be it enacted, &c.,* That the witnesses who attended at Richmond, on the trial of Aaron Burr, be allowed — per day, and — cents per mile, in addition to their former compensation: *Provided*, That the same does not exceed three dollars per day, for their attendance at Richmond, and twelve and a half cents per mile, travelling from and returning to their respective places of residence."

The bill having gone through the Committee, was reported to the House.

On the question of filling the first blank with the sum of one dollar and seventy-five cents—

Messrs. MACON and PITKIN opposed it on the ground that it was improper to distinguish this case from others occurring before the Supreme Court. If compensation was due from the Government in one case, it was doubtless due in others also. No doubt, it was said, sacrifices were made by some of those gentlemen who attended, and it was a heavy tax on them; but it was a tax

which all citizens of the United States were liable to pay when called upon to give testimony—it was a tax which they paid for their liberty. If the general provision by law was not adequate, it ought to be increased; but the witnesses had attended with a full knowledge of what they had to expect, and it would be improper to make this case an exception from the general rule.

Mr. HOLLAND and Mr. POINDEXTER contended, in reply, that this was a case different from all others and therefore ought to be taken out of the general rule; that the Attorney General of Virginia and the clerk of the court had each actually received \$1,000 for additional services, though they had no occasion to move a step from home in the business, and one thousand dollars had been given by the Government to a reporter for a fair report of the case. It was said that it could not be argued that this was a case inferior in importance to the impeachment of Chase; and yet in that case as much had been allowed as was here asked. It was also said that in this case a particular request had been made to each individual to attend, in order to insure a trial; and that the witnesses had therefore attended, though at great loss.

The question on filling the blank was negatived, 46 to 27.

The question on filling the second blank with seven and a half or with five was also lost.

Mr. LEWIS moved to fill the blank with one dollar and fifty cents.

Mr. BASSETT made a motion superseding that, viz. to postpone the bill indefinitely. For indefinite postponement 54; against it 25.

So the bill was lost.

#### CURRENCY OF FOREIGN COINS.

Mr. QUINCY, from the committee to whom was referred, on the fourteenth instant, the bill sent from the Senate to suspend the second section of the act, entitled "An act regulating foreign coins, and for other purposes," made a report; which was read, and, together with the bill, referred to a Committee of the Whole on Monday next.

The report is as follows:

That the general design of the bill being to increase the current money of the United States, by authorizing foreign gold and silver coins again to become a legal tender, is important in its object, and may be beneficial in its consequences. It is very apparent, that the denial to foreign coins of the privileges of currency, and of being a legal tender, has, at once, the combined effect of circumscribing the just sphere of mercantile action, and of encouraging the exportation of that species of coin, to which these privileges are denied. In the present circumstances of the United States, it seems particularly inadvisable to permit any statute prohibitions to continue, which have a tendency to produce such an effect. The statute currency of the United States, which now consists only of the coinage of the Mint of the United States, and of Spanish milled dollars and parts of dollars, is, also, probably insufficient for the ordinary purposes of domestic exchange, and is certainly wholly inadequate to support any peculiar embarrassment of our circulating medium, which, in the event of the dissolution of the Bank of

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the United States, cannot but be anticipated. Your committee were, therefore, of opinion, that foreign gold coins ought to be made current money and a legal tender.

Your committee, having caused a letter to be addressed to the Secretary of the Treasury, in relation to the former statute rate at which foreign coins were made current, received from him the two letters accompanying this report. From which it appears, that the gold coins of Spain and its dominions, had been estimated by the former statute of the United States, at a rate of four per cent. above their intrinsic value; in other words, that the quantity of pure gold contained in twenty-seven grains and two-fifths of a grain of Spanish standard coin, instead of being equal to one hundred cents, the statute rate, was only equal in value to about ninety-six cents.

Upon receiving this information, two general inquiries were suggested for the consideration of the committee. 1st. Whether, in again vesting Spanish gold coin with the character of current money of the United States, it were expedient to establish the old statute rate, now discovered to be erroneous, or, whether a new statute rate for it should be established, which should conform to its intrinsic value? 2d. Upon the supposition that it should be deemed advisable to enact a new statute rate for it, conformable to its intrinsic value, whether, as a loss of four per cent. upon all the Spanish gold in the United States, would thus be incurred, by the present holders, in consequence of no fault of theirs, but solely by reason of the erroneous estimate of a law of the United States, any moral or equitable considerations required that this loss should be assumed by the United States?

Concerning the first object of inquiry, the committee will attempt to add nothing to the satisfactory elucidation contained in the letter of the Secretary of the Treasury, and only express their entire concurrence with his opinion, that "the statute rate of these coins should be made to conform with their intrinsic value."

With respect to the second inquiry, which the Secretary represents as "of a more doubtful nature," the committee were of opinion, that, whatever equitable considerations might exist, the attempt to apply relief under the particular circumstances of this loss, was inexpedient, and, for the most part, impracticable. For, it is very apparent, that there is no foundation or color for indemnification, on account of any receipts of these coins, subsequent to the 10th of April, 1809, when the law making them a legal tender expired. Now, so far as it respects individuals, the cases (if such in fact exist) in which the present holders of those coins received them, antecedent to that period, must be so extremely rare, as to render a general provision for their relief scarcely necessary. And, as to banks, such is the successive circulation of specie through their vaults, that it is hardly to be supposed, that any one institution in the United States could distinguish the amount of this species of coin, which it had received prior to the 10th of April, 1809, from that which it had received subsequently. And, although, in a few instances, this might be the case, yet, it seems far better that in these, the loss should remain where it has fallen, than that the community should be exposed to the multiplied frauds and inconveniences which the attempt to indemnify, upon any general principle, would inevitably introduce.

Your committee, upon recurring to the acts existing on the subject of the bill from the Senate, in connex-

ion with the proposed alteration in the rate of Spanish gold coins, found that the operation of the respective provisions would be embarrassed and confused, in their nature, and inconvenient in their form. The bill from the Senate, proposed to suspend the second section of "An act regulating foreign coins and for other purposes." This act passed on the 9th of February, 1793, and the effect of this suspension was, to revive the provisions of the act passed on the 10th of April, 1806. Whether the intended, would be the legal result, your committee had some doubt. But they had none that the proposed, was a very inconvenient circuit, to a direct object. They were also of opinion, that it was highly expedient that all the provisions, touching a subject of such universal concern, should be concentrated in one bill, and divested of everything which might embarrass research. They, therefore, report the whole bill from the Senate stricken out, after the enacting clause, and propose an amendment, comprehending all the provisions necessary on the subject of the currency of foreign coins.

Strike out from the word "that," in the second line, and insert,

From and after the passage of this act, foreign gold and silver coins shall pass current as money within the United States, and be a legal tender for the payment of all debts and demands, at the several and respective rates following, and not otherwise, viz :

The gold coins of Great Britain and Portugal, of their present standard, at the rate of one hundred cents for every twenty-seven grains of the actual weight thereof; the gold coins of Spain, and the dominions of Spain, of their present standard, at the rate of one hundred cents for every twenty-eight grains and sixty hundredths of a grain of the actual weight thereof. Spanish milled dollars, at the rate of one hundred cents for each, the actual weight whereof shall not be less than seventeen pennyweights and seven grains, and in proportion for the parts of a dollar. Crowns of France, at the rate of one hundred and ten cents for each crown, the actual weight whereof shall not be less than eighteen pennyweights and fifteen grains and an half of a grain, and in proportion for the parts of a crown. And it shall be the duty of the Secretary of the Treasury, to cause assays of the foreign gold and silver coins made current by this act, to be had at the Mint of the United States at least once in every year, and to make a report of the result thereof to Congress, for the purpose of enabling them to make such alterations in this act as may become requisite from the real standard value of such foreign coins. And it shall be the duty of the Secretary of the Treasury, to cause assays of the foreign gold and silver coins, of the description made current by this act, which shall issue subsequently to the passage of this act, and shall circulate in the United States, at the Mint aforesaid, at least once in every year, and to make report of the result thereof to Congress, for the purpose of enabling Congress to make such coins current, if they shall deem the same proper, at their real standard value.

SEC. 2. *And be it further enacted,* That, at the expiration of three years from and after the passing of this act, all foreign gold coins, and all foreign silver coins, except Spanish milled dollars, and parts of such dollars, shall cease to be a legal tender as aforesaid.

SEC. 3. *And be it further enacted,* That the act, entitled "An act regulating the currency of foreign coins in the United States," and also every section and

parts of sections of any act or acts heretofore passed relative to the currency of foreign coins in the United States, be, and the same are hereby, repealed.

TREASURY DEPARTMENT, Dec. 17, 1810.

SIR: I had the honor to receive your letter of the 14th and 15th instant. The assays for the year 1810 are daily expected, but not yet received. I, therefore, beg leave to refer the committee to those made according to law, in the year 1809, the result of which is exhibited in the letter of 29th June, 1809, from the Director of the Mint, annexed to the report from this Department, of 8th December, 1809.

It appears from those assays that the intrinsic value of all foreign coins, the gold coins of Spain excepted, which were made a legal tender by the act of 10th of April, 1806, either agrees precisely with the legal value fixed by that act, or differs from it by so small a fraction, as to render any alteration in that respect unnecessary. But the difference in the value of Spanish gold coins is considerable.

It will be recollected, that the value of gold coins of the United States is established in conformity with the following principles, viz:

1st. The unit, or silver dollar, contains  $371\frac{1}{4}$  grains of pure silver.

2d. The comparative value of gold and silver is in the ratio of 15 to 1; that is to say, that fifteen ounces of pure silver, are, according to law, equal in value to one ounce of pure gold.

3d. The standard gold, or that of which gold coins of the United States are made, contains eleven parts of pure gold and one part of alloy; or one-twelfth part of its weight is alloy.

Thence it follows, 1st, that  $24\frac{1}{2}$  (being the 15th part of  $371\frac{1}{4}$ ) pure gold, are equal to one dollar. 2dly, that 27 grains of standard gold of the United States, containing  $24\frac{1}{2}$  grains of pure gold, are also equal to one dollar.

In fixing the rate at which foreign coins should pass, the object was to ascertain the standard, or quantity of pure gold contained in a given weight, and to place them, according to that intrinsic value, exactly on a par with coins of the United States. The act of 10th of April, 1806, was predicated on the supposition that 27 2-5 grains of Spanish standard gold contained  $24\frac{1}{2}$  grains of pure gold, and were, therefore, equal in value to 27 grains standard gold of the United States, or to one dollar current money of the United States. But that supposition is proven by the assays to have been erroneous; the standard of Spanish gold coins being worse, or containing more alloy, than was then believed. That standard varies according to the years of the coinage. The coins of the year 1806, are the lowest and worst by more than four and a half per cent., than the value fixed by the act of 10th of May, 1806. Those of the year 1807, are worse than those of the year prior to 1806; and those of the year 1808, are worse than those of 1807. Those of the years prior to 1806, though better than the subsequent coinages, are almost three and a half per cent. worse than the value fixed by the act of May, 1806.

Taking the general average of the several coinages, it appears that they should be taken at the rate of 28 53-100 grains, (instead of 27 40-100) for one dollar; and that the difference between their intrinsic value and that fixed by the act of April, 1806, is almost four per cent. (3 986-1000 per cent.)

If, therefore, the act should be revived, without any alteration, every person receiving those coins in pay-

ment, would, in fact, be compelled to receive only ninety-six instead of one hundred cents on every dollar paid to him. The unavoidable effect of putting in circulation any one species of coin, at a rate higher than its known intrinsic value, is to invite its importation and increased circulation, and to drive out of circulation the other species. Every bank, if called to pay its notes in specie, will, in that case, pay with that species of coin; and the whole paper circulating medium must, after a while, be depreciated in the same proportion. The only guard against the abuse, and consequent depreciation of bank paper, is a strict adherence to the principle, that payment may, at any time, be demanded in specie, rated at its intrinsic value.

On the other hand, it is not less true, that the gold coins of Spain, were made a legal tender by law, for a certain number of years, at a higher rate than they were really worth; that, to the very last day of that period, every person was compelled to receive them in payment, at that rate; and that, at the expiration of the period, a quantity of that gold necessarily remained in the hands of some persons, on whom the loss falls, by the unavoidable effect of the law, and without any fault of theirs. It is in order to relieve those persons, that it is proposed to make the loss fall on the community, by reviving the law, without alteration; that is to say, by putting again the coins in circulation, at a higher rate than their intrinsic value.

The two questions put by the committee, are, whether, the statute rate of these coins should not be made to conform with their intrinsic value, and whether, in order to relieve individuals from the loss resulting from the late erroneous legal estimate of their value, it would not be eligible that the difference should be paid by Government.

To the first question, I can have no hesitation, for the above-mentioned reasons, to answer in the affirmative. The second question is of a more doubtful nature. But if it shall be thought just, that the loss should fall on the community, rather than on individuals, it will certainly be preferable to pay at once the difference, rather than knowingly to make the coins again a legal tender, at a higher rate than they are worth. Should that measure be adopted, the mode proposed by the committee, viz: to direct the Mint to receive that species of gold, for a short time, at the former statute rate, the United States paying the difference, appears also the most simple and eligible manner of effecting the object. The following provisions are, in that case, respectfully suggested:

1st. That, as the assays of the coins of the years 1809 and 1810, have not yet been received, and, as Spanish gold ceased to be a legal tender early in the year 1809, the revival of the law making them a legal tender should apply only to coins coined prior to the year 1809.

2d. That, for the same reasons, the statute value should be fixed at a rate not higher than the average, of the assays heretofore made; that is to say, that they should pass at a rate not higher than 28 53-100 grains, for one hundred cents.

3d. That, for the same reasons, the obligation on the Mint to receive those coins, at their former statute rate, should be limited to coins coined prior to the year 1809.

4th. That, as the indemnification to the individuals, arises from equitable considerations, and not from an absolute legal obligation, the period during which the



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coins shall be received at the Mint, at their former statute value, be made so short as to preclude the possibility of embracing speculative importations. One month from the passing of the law would seem sufficient.

5th. That no such coin shall be thus received at the Mint, at its former statute value, unless proof, or at least an affidavit be made, that the persons claiming the benefit of the provision, had actually received the same at that value prior to the time when the law making it a legal tender expired.

It will also be necessary, in that case, that an appropriation should be made to enable the Mint to carry the provision into effect. The amount of that appropriation should be at the rate of four per cent. on the supposed amount of Spanish gold now in the United States, which may be embraced by such provisions. But, having no knowledge whatever of that amount, I cannot suggest any precise sum.

I have the honor to be, respectfully, sir, your obedient servant,  
ALBERT GALLATIN.

Hon. JOSIAH QUINCY, *Chairman, &c.*

TREASURY DEPARTMENT, Dec. 24, 1810.

SIR: This year's assays have been received, and will be sent to-morrow to Congress. These make the average for French gold coins 27 52-100 grains, and for Spanish coins, 28 62-100. It must also be observed, that French crowns were rated too low. Instead of its being necessary that they should weigh 18 penny-weights and 17 grains, they ought to be received, if weighing 18 penny-weights and 15½ grains; it appearing from the assays, that, if of the first-mentioned weight, they are worth 110 cents and 36-100 of a cent, instead of 110 cents.

I have the honor to be, &c.

ALBERT GALLATIN,

Hon. JOSIAH QUINCY, &c.

FRIDAY, December 28.

Mr. McKIM presented a petition from the merchants of Baltimore, in the State of Maryland, to the same effect with the petition from the merchants of the city of New York, presented the thirteenth instant.—Referred to the Committee on Foreign Relations.

On motion of Mr. W. ALSTON,

*Resolved*, That the President of the United States be requested to cause to be laid before this House an account of the expenditure of the money appropriated on the first of May, one thousand eight hundred and ten, for completing the Capitol, and for other purposes, distinguishing the sums expended for each item of appropriation, and the sums expended in payment of debts previously incurred.

Messrs. ALSTON and RICHARDS were appointed a committee to present the foregoing resolution to the President of the United States.

Mr. BASSETT, from the Committee on the Naval Establishment, to whom was referred the several petitions of the officers of the Navy, presented a bill in relation to the pensions and rations of the officers of the Navy; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. BACON, from the committee appointed on

the twenty-fourth instant, presented a bill authorizing the Secretary of State to cause a general index to the laws of the United States to be made, printed, and distributed; which was read twice, and committed to a Committee of the Whole on Tuesday next.

Mr. MORROW, from the Committee on the Public Lands, made a report respecting the location of Virginia military land warrants, in pursuance of a resolution of the twenty-sixth instant; which was read, and referred to a Committee of the Whole on Tuesday next.

The House resolved itself into a Committee of the Whole on the report of a select committee on the petition of Alexander Scott, of South Carolina; and, after some time spent therein, the Committee rose, and had leave to sit again.

#### MISSISSIPPI TERRITORY.

Mr. POINDEXTER offered the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of authorizing the people of the Mississippi Territory to elect a convention to form a constitution, preparatory to the admission of that Territory into the Union as a separate and independent State: and that the committee have leave to report by bill or otherwise.

Mr. PITKIN expressed a wish that it should lie on the table a few days, for the purpose of further consideration.

Mr. POINDEXTER asked what objection there could be to the adoption of a resolution to inquire. Why, when the object of the resolution itself was merely inquiry, should it lie on the table for inquiry? If the House were disposed to inquire, the sooner they did it the better; and a committee, if appointed, would make it a particular duty to investigate all the points in relation to the subject.

Mr. WRIGHT said that this resolution did not go to fix a new principle; it was already fixed by the Constitution, that the Territories should, of right, become States whenever their population amounted to sixty thousand. When it is probable that their numbers had reached this point, it was the duty of the House to investigate; and when they found it to be so, they had nothing to do but declare the fact, according to which, by the Constitution, they were entitled to become States. He could see no possible objection to the inquiry.

Mr. PITKIN said, the idea of the Mississippi Territory becoming a State at this time was new to him. It was entitled when it contained sixty thousand inhabitants, but ought not to take rank as a State before that period arrived. He was opposed to discussing or passing the resolution at this time, because it would be holding out the idea that the people of this Territory were of course to be admitted as a State, and that this committee was appointed merely to enable them to form a constitution before their time. Perhaps there were not as many inhabitants in the Territory as in many counties of Pennsylvania and some other States. This resolution would

be considered as a sort of pledge to the people; and all this, Mr. P. said, without there being in fact any petition from the Territory on the subject.

Mr. BIBB said he would barely remark, that he suspected the gentleman from Maryland had misunderstood the object of the delegate from Mississippi. It was certainly true, that the Mississippi Territory could claim, as a right, to be admitted, as a State, into the Union whenever it should contain sixty thousand souls. It was perfectly well understood that it did not, at present, contain more than half that number. Consequently, the only question for a committee to inquire into would be, shall the Mississippi Territory be admitted as a State before she has the requisite number? This must be the only object of the resolution.

Mr. POINDEXTER said the gentleman had misunderstood his object, and had been misinformed as to the fact. Two counties in the Territory would give half the number required to constitute it a State, and the Territory contained ten counties. Investigation was his sole object. The gentleman from Connecticut had said it was a novel subject. To him, the opposition of the gentleman was very novel. When a proposition was made to investigate a subject of importance to any section of the Union, were gentlemen to say they would not investigate, when they might withhold from the people absolute rights by refusing to make the inquiry? The difference of opinion appeared to be whether they should make the inquiry fully or ineffectually. The latter would be the effect of its lying on the table. Even admitting that the population of the Territory was not sixty thousand, it was a question for the discretion of the House, whether it would be proper to admit them earlier or not. But if precedent were wanted for this proposition, it might be found in the report by a committee of the House of a bill for the admission of the Territory of Orleans as a State; and he would venture to affirm that there was no official account of the population of that Territory. Mr. P. said he was informed that there was a memorial on this subject on its way from the Mississippi Territory. He solicited inquiry, not only into the numbers, but the political character of the Territory, and into their conduct towards the General Government whenever it had been assailed. When the borders had been invaded by the Spaniards, in a few days, two hundred and fifty militia were half way on their march. When the choice spirits of the East, wearied with the dull pursuits of civil life, were desirous of establishing an empire in the West, the citizens of the Mississippi Territory rallied around the standard of the Constitution, and put them down. These circumstances had proved their disposition.

Mr. TROUP said he wished the resolution to lie on the table, not because he was unfriendly to the admission of the Territory into the Union; far from it; but it was obvious that there was no information before the House on which it could act. It was true that a population of sixty thou-

sand was not necessary, but a certain amount must be. What that amount was, Congress could not ascertain, because it had no information. How, then, could the House, with any propriety, direct a committee to inquire into a subject, which it was morally impossible for it to do, even if in a Committee of the Whole, for the purpose, having no information before it?

Mr. BIBB said he was not opposed to the admission of the Territory into the Union, but he wished the House to understand the nature of the inquiry. He would ask the gentleman from Mississippi Territory whether he did not know there were not sixty thousand people within the Territory. He was aware that Congress might admit any Territory to the rights of a State before it attained a population of sixty thousand souls; and the only question into which an inquiry would really be made, after the adoption of the resolution, would be whether the Territory should be admitted as a State with a less population than sixty thousand, or not.

Mr. POINDEXTER said the census of the Territory had not been returned; consequently, he could not say anything as to the precise population.

The motion for the resolution to lie on the table was lost—54 to 51.

The resolution was then modified, on the suggestion of Mr. PITKIN, to read as follows:

*Resolved*, That a committee be appointed to inquire into the expediency of admitting the Mississippi Territory into the Union, as a separate and independent State.

The resolution, as amended, being under consideration, Messrs. PITKIN, TALLMADGE, GOLDSBOROUGH, and QUINCY, opposed its passage, and Messrs. SMILIE, MACON, RHEA, of Tennessee, WRIGHT, BARRY, and POINDEXTER, supported it.

The arguments against the resolution were, generally, that it would be giving a pledge to the people of the Mississippi Territory, that they should become a State before their numbers entitled them to claim that distinction; that there was no memorial or petition from these people, praying admission into the Union, which was presumptive proof that they were not very anxious for that event; that, as every State in the Union was entitled to at least one Representative, these people would be represented (even if but thirty thousand) as fully as though they had a sufficient population to entitle them to one Representative; that, without information as to the population, it was improper to act at all, as so acting might excite hopes which could not but be met by disappointment.

On the other hand, it was argued, in favor of the resolution, that Territorial governments were uncongenial to the spirit of our Government, being in some measure controlled by arbitrary power, having no voice in the choice of their councillors; that, although there was no memorial from the Territory, the sense of the people was decidedly expressed through the medium of their Delegate on this floor, who was the legitimate organ for the conveyance of their senti-

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ments to the House; that the national affairs required at least as much attention as the House could bestow on them, and it was therefore expedient, as soon as possible, to give to the Territory, by making it a State, the right of regulating its own municipal concerns; that, supposing all these arguments to have no weight, the resolution merely proposed inquiry, which was scarcely ever liable to objection.

The following are the yeas and nays on the resolution:

**YEAS**—William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, James Cochran, William Crawford, John Dawson, Joseph Desha, William Findley, Jonathan Fisk, Meshack Franklin, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, Daniel Heister, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Peter B. Porter, Elisha R. Potter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, Uri Tracy, Geo. M. Troup, Charles Turner, jun., Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright—77.

**NAYS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, Richard Cutts, John Davenport, jr. William Ely, James Emott, Thomas R. Gold, Charles Goldsborough, William Hale, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Jonathan O. Moseley, Timothy Pitkin, jr., Josiah Quincy, Thomas Sammons, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson—37.

Messrs. POINDEXTER, MCKIM, HUFTY, ANDERSON, STURGES, VAN RENSSELAER, and CLOPTON, were appointed the committee.

SATURDAY, December 29.

On motion of Mr. SAWYER,

*Resolved*, That a committee be appointed to inquire into the expediency of altering or extending the times of holding the Federal District Courts of North Carolina; and that they have leave to report by bill, or otherwise.

Messrs. SAWYER, SHEFFEY, and HEISTER, were appointed a committee pursuant to the said resolution.

Mr. VAN HORN, from the Committee on the District of Columbia, presented a bill concerning

the Bank of Alexandria; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. MORROW presented petitions from sundry inhabitants of the State of Ohio, praying that Congress will reduce the price of certain lands lying within the first purchase, which said lands are of a very inferior quality.—Referred to the Committee on the Public Lands.

MONDAY, December 31.

Another member, to wit: from Delaware, NICHOLAS VAN DYKE, appeared, and took his seat.

Mr. SOUTHARD, from the committee appointed on the twenty-first instant, presented a bill to revive "An act to prescribe the mode of taking evidence in cases of contested election for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and in addition to the same; which was read twice, and committed to a Committee of the Whole on Wednesday next.

A motion was made by Mr. BACON, that the House do come to the following resolution:

*Resolved*, That the Committee of Claims be instructed to inquire into the expediency of repealing or suspending the operation of the several acts of limitation, so far as they now operate to bar the payment of the following description of claims against the United States, to wit:

*First*, Loan office certificates.

*Second*, Indents for interest on the public debt.

*Third*, Final settlement certificates.

*Fourth*, Commissioners' certificates.

*Fifth*, Army certificates.

*Sixth*, Credits given in lieu of army certificates cancelled.

*Seventh*, Credits for the pay of the Army for which no certificates were issued; and

*Eighth*, Invalid pensions: and that the committee have leave to report by bill, or otherwise.

The resolution was read and ordered to lie on the table.

Mr. SAWYER, from the committee appointed on the twenty-ninth instant, presented a bill to alter the times for holding the district courts of the district of North Carolina; which was read twice, and ordered to be engrossed, and read the third time on Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

I lay before the House a report from the Secretary of State, complying with their resolution of the twenty-first instant.

JAMES MADISON.

DECEMBER 28, 1810.

The Message was read, and that part of the same which relates to a tariff of duties, referred to the Committee of Commerce and Manufactures, and the residue thereof referred to the Committee on Foreign Relations.

Mr. JENNINGS, from the committee appointed on the nineteenth instant, presented a bill to authorize the laying out a public road from the line

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established by the treaty of Greenville to the Northend, in the State of Ohio; which was twice read, and committed to a Committee of the Whole on Wednesday next.

On motion of Mr. NEWTON,

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency and propriety of confining the benefit of drawback of duties to merchandise imported into and exported from, the United States, to vessels belonging to citizens of the United States.

An engrossed bill providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, was read the third time, and passed.

On motion of Mr. QUINCY, the House resolved itself into a Committee of the Whole on the amendments reported by the select committee to the bill from the Senate respecting foreign coins. [The amendments go to make all foreign coin current at its standard value, and to repeal all other acts relating to the currency of foreign coins in the United States. This bill to continue in force three years.] The bill went through a Committee of the Whole, and was ordered to be engrossed for a third reading to-morrow.

A bill for the removal of certain land offices, and regulating certain sales of lands in the district east of Pearl river, went through a Committee of the Whole, and was ordered to be engrossed, and read the third time to-morrow.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives of the United States:*

I lay before the House of Representatives a supplemental report of the Secretary of State, containing information received since the date of my late Message on the subject of their resolution of the twenty-first instant.

JAMES MADISON.

DECEMBER 31, 1810.

The Message was read, and referred to the Committee of Commerce and Manufactures.

On motion of Mr. SWOOPÉ, three thousand copies of the said Message and documents were ordered to be printed for the use of the members of the House.

#### • APPROPRIATIONS.

The SPEAKER laid before the House a report of the Secretary of the Treasury, of the estimates of appropriations necessary for the service of the year 1811; which was referred to the Committee of Ways and Means.

The report is as follows:

TREASURY DEPARTMENT, Dec. 31, 1810.

SIR: I have the honor to transmit, herewith, the estimates of the appropriations proposed for the service of the year 1811; also a statement of the receipts and expenditures at the Treasury, for the year ending on the 30th day of September, 1810.

The appropriations, as detailed in the estimates, amounting in the whole to five millions nine hundred thousand five hundred and ninety-five dollars and twenty-five cents, viz:

For the civil list - - - -	638,360	61
For miscellaneous expenses - - - -	471,958	12
For intercourse with foreign nations - - - -	128,392	68
For Military Establishments, including one hundred and forty-six thousand five hundred dollars, for the Indian Department, - - - -	2,791,600	80
For the Naval Establishment, including the Marine Corps, - - - -	1,870,274	05
Total - - - -	\$5,900,595	25

The estimate of the Secretary of the War Department is calculated on the whole number of troops authorized by law; but it does not include the permanent annuities to certain Indian tribes, nor the annual appropriation of two hundred thousand dollars for furnishing arms for the militia, those objects being provided for by permanent laws. Nor is any estimate made, of the sum which may be wanted during the ensuing year, for completing fortifications. The sums which may be actually expended in the year 1811, for those several objects, are not, therefore, included in the aggregate above stated.

The funds out of which appropriations may be made, for the purposes before mentioned, are,

1. The sum of six hundred thousand dollars of the proceeds of duties on imports and tonnage, which will accrue in the year 1811; which sum is by law annually reserved for the support of Government.

2. So much of the balances of appropriations unexpended on the 31st of December, 1810, as is not wanted to defray the expenses of that year.

3. The surplus of the revenue and income of the United States, which may accrue to the end of the year 1811, after satisfying the objects for which appropriations have been heretofore made.

4. The proceeds of such loan or loans as may be authorized by Congress.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. SPEAKER of the House of Reps.

TUESDAY, January 1, 1811.

The House met, but a quorum not being present, adjourned until to-morrow morning.

WEDNESDAY, January 2.

Two other new members, to wit: from New Hampshire, NATHANIEL A. HAYEN; and from Maryland, JOHN CAMPBELL; appeared and took their seats.

On motion of Mr. STANLEY,

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of providing, by law, for a remission of penalties involuntarily incurred by infractions of the laws prohibiting commercial intercourse with Great Britain and France, and their dependencies.

The SPEAKER laid before the House a letter from JOHN TAYLOR, resigning his seat as a member of this House, from the State of South Carolina, in consequence of having accepted an appointment as a Senator of the United States.

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*Foreign Coins—Orleans Territory.*

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Mr. JENNINGS presented a resolution of the Legislature of the Indiana Territory, instructing him to procure the passage of an act authorizing the people of the said Territory to elect the sheriffs of the respective counties in said Territory.

The resolution was read, and referred to Mr. JENNINGS, Mr. HAVEN, and Mr. NICHOLSON.

On motion of Mr. Root,

*Resolved*, That the Secretary of the Treasury be directed to lay before this House a statement of the whole expense to the Government of the Mint of the United States, since its first establishment; the profits on the copper coinage; the amount of gold coined at the Mint; and the rate per centum of expense in refining gold bullion below the standard fineness.

An engrossed bill providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river, was read the third time, and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a report of the Commissioners appointed for the purpose of examining the claims of persons claiming lands in the District of Kaskaskia; which were read, and referred to the Committee on the Public Lands.

#### FOREIGN COIN.

The bill sent from the Senate, entitled "An act to suspend the second section of the act, entitled 'An act regulating foreign coins, and for other purposes,'" as amended, was read the third time.

A motion was made by Mr. BOYD, that the bill be recommitted to a Committee of the whole House; and the question being taken, it was determined in the negative. The question was then taken that the same do pass, and resolved in the affirmative—yeas 82, nays 20, as follows:

YEAS—Joseph Allen, Lemuel J. Alston, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, William Butler, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, James Cochran, John Davenport, jr., Joseph Desha, William Ely, James Emott, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Robert Jenkins, Richard M. Johnson, William Kennedy, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, Benjamin Pickman, jr., Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, John Roane, Ebenezer Sage, Thomas Saumons, Lemuel Sawyer, John A. Scudder, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Lewis B. Sturges, Jacob Swoope, Samuel Taggart,

Benjamin Tallmadge, John Thompson, Uri Tracy, Robert Weakley, Laban Wheaton, Robert Whitehill, James Wilson, Richard Winn, and Robert Wright.

NAYS—David Bard, Adam Boyd, Robert Brown, Joseph Calhoun, Matthew Clay, John Clopton, William Crawford, Richard Cutts, Daniel Heister, Jacob Hufty, John Love, Aaron Lyle, William McKinley, John Montgomery, Matthias Richards, Erastus Root, Ebenezer Seaver, John Smilie, Charles Turner, jr., and Archibald Van Horn.

On motion of Mr. QUINCY, the title of the bill was amended to read as follows: "An act regulating the currency of foreign coins, and providing for their assay."

#### ORLEANS TERRITORY.

The House resolved itself into a Committee of the Whole, on the bill for admitting the Territory of Orleans as a State into the Union.

Mr. MITCHILL rose to ask for information as to the population, &c. of that Territory.

Mr. POINDEXTER said he had no doubt, from the knowledge that he had of the Territory, that it contained at least sixty thousand souls. On the subject of population therefore there could be no difficulty. How far it would be proper to postpone the consideration of the bill till the bill before the Senate (respecting the West Florida Territory) was decided on, he would not undertake to say.

Mr. POYDRAS corroborated the statement of Mr. POINDEXTER. He said he derived his statement from the Governor of the Territory himself. The Territory contained at least 60,000 souls. It had a right to become a State; and he could not see the least pretence for an objection to it. Congress, however, would act as in their wisdom they should deem it fit.

Mr. TROUP moved for the Committee to rise, urging as a reason for the motion the evident want of preparation in the House to act on the subject. He also alluded to the difficulty arising from including within a State the territory between the Mississippi and the Perdido, yet in dispute and subject to negotiation.

Mr. GHOLSON opposed the Committee's rising. He considered the bill before the Senate merely as a declaratory bill, and not at all altering the present state of that Territory.

Mr. W. ALSTON said there could be no question of the propriety of admitting the Territory as a State, whilst it was in the power of Congress to make conditions with them. After the population was ascertained to amount to 60,000, they would become a State without asking the leave of Congress.

Mr. BIBB said it was very far from his intention to oppose the passage of the bill. On the contrary, he was favorably disposed to it; but a difficulty had occurred to him which he would state as a reason for delaying a decision on the bill for the present. The bill proposed including in the State all that part of the Territory which lay west of the Perdido, &c. The President, by his Proclamation, although he had required its occupation, had declared that the right should be

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subject to negotiation. Now, if it became a State, would not all right of negotiation on the subject be taken from the President?

Mr. TROUP said he had made the motion to rise, because he saw that the Committee were obviously not ready to decide. Independent of other considerations, Mr. T. said the ratio of representation was not yet fixed—and did it not become Congress to take care that the population of the Territory did not fall short of that ratio? Would it be proper that 30,000 inhabitants in Orleans should have a representative when forty or fifty thousand were required for the same privilege in other parts of the Union?

Mr. BARRY said that the necessity of State government, the want of proper control by the General Government, and its inability to attend to the municipal concerns of the Territory, imperiously called upon Congress to erect it into a State. It was unimportant, as respected the ratio, that the bill should be delayed till that was ascertained. Although the precise population could not be ascertained, yet, from what had fallen from the gentlemen from Orleans and Mississippi Territories, it was probable that the Territory had already a right to become a State. Mr. B. said it was important that Congress should act on this subject, for a variety of reasons. It was a point of the Union particularly important to the country which he represented. New Orleans commanded the river through which the whole productions of the Western and of some part of the Southern country were carried to market. It became important in another respect, that the people in that country should have the power of self-government. He alluded to the necessity, in the present posture of affairs, that they should have the power of self-preservation to protect themselves in the enjoyment of their rights, and that the powers resulting from State sovereignty ought therefore to be extended to them at this time. The objection which had been urged, respecting the question of title, was equally unimportant. Admitted in its full force, it would only require a modification of the bill, reserving to Congress the power of changing the boundary of the Territory; and this would be a desirable modification because of the undefined limits of the Territory. This objection did not meet the merits of the bill, but merely suggested a modification. It was important now to act on the subject, because Congress had the power to impose conditions on the Territory. If they waited until it had attained a population of 60,000, they could not say no to the demands of these people. Passing this bill would tend to show that an attachment to them and a disposition to conciliate them existed in Congress; and would at the same time admit of imposing conditions on them. And when it should become necessary to discuss the details of the bill, the reasons would be found cogent for retaining the conditions it contained. One very important condition was, that their laws should be enacted and records kept in the language common to all the States; as, after they became a State, a great part of the population being French, they might prefer that lan-

guage. All the objections which had been made to an immediate decision on this subject, Mr. B. said, were unsubstantial. The State of Ohio had been admitted into the Union before she had attained the population designated by the Constitution. The situation of the Orleans Territory to a great part of the Western country was infinitely more important than that of any other Territory; and the people of that portion of the Union of course felt greater anxiety in relation to it than in relation to any other.

Mr. SHEFFEY said he was not prepared to act on the subject, because the materials on which to decide were not before the House. Whilst he was disposed to treat the inhabitants of the Orleans Territory, as brothers, and not as vassals, he was not ready to transfer the inheritance purchased by the blood of our fathers to foreigners. While he looked upon these people as equals, and was disposed to do them justice, he thought all they could demand at his hands was to be placed on that equality to which they were entitled. It had been said that the population was this much or that much. How much?—Mr. S. asked. Sixty thousand? Forty thousand? Thirty thousand? Would any gentleman who regarded his honor tell the House that there were 30,000 inhabitants in the undisputed Territory? He believed not. And would gentlemen favor this French population at the expense of their own interests and rights? It was true indeed that Ohio became a State before she had 60,000; but the ratio of representation was then but 30,000. If he were to reason on this subject, Mr. S. said he would say, under the fostering hand of the General Government, let them become accustomed to our Government, before those were permitted to govern themselves who had so lately emerged from despotism. He was not, he said, directly hostile to the admission of this Territory into the Union; but he made these observations in answer to speculations ushered in to lead the House from its duty. They ought to have the necessary information. The idea of a gentleman from Georgia had also occurred to him, respecting the extension of the limits to the Perdido. When the Executive had directed the occupation of that Territory it had given a pledge that it should be subject to future negotiation. And would gentlemen say, that the Executive could convey away any part of a State? Although it should be hereafter clearly proved, that the Territory was not ceded, what is he bound to do? To establish a doctrine spurned at by all, that the treaty-making power has a right to cede a State or any part of a State? Certainly not. This consideration was sufficient to induce the House to look about them before they proceeded. Why should they be hurried on without information? The particular situation of the Territory had been mentioned as a ground for an immediate decision. What was its situation? It is far distant; so is the Mississippi Territory. The latter has been nursed in the principles of civil liberty; the former has not. The latter is composed chiefly of our own citizens; the former is not. Mr. S. said he had al-

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ways understood that New Orleans was the most vulnerable point of the Union, and it was therefore the more proper still to keep the power in our own hands.

Mr. MACON said he would treat these people as he would the people of every other Territory. They were a part of the nation, and so ought to be considered. There ought to be no question as to what stock they sprung from; the true question was, ought they to be a State? The true policy, Mr. M. thought, was, as they were to become a part of the United States, to make them one and indivisible as soon as possible. They had already served a sufficient apprenticeship to the United States, but not under a free Government, for the Territorial governments were not free. The advantage of exacting of them the condition of using the same language, was a great one. How could they be made one with the United States unless by the use of the same language? Mr. M. wished to treat this Territory as well as the others, and no better; he would not treat one as a daughter and the other as a step-daughter. He was as willing now to make Orleans a State as he had been to make Ohio a State. The great object is to make us one people; to make this nation one. As to the Mississippi Territory, it had not served a much longer apprenticeship than Orleans, having only been acquired by the treaty with Spain in 1795. The people of Orleans possessed certainly as strong an attachment to the nation as could be expected from the time they had belonged to it. When the Spaniards invaded the Territory, they stepped forward promptly to repel them; and when some citizens of the old States forgot the love every honest heart owes to his country, they showed their attachment to the Union by the readiness with which they lent their aid to repel them. To make them a State would make that attachment still greater, and it was therefore advisable to act on the subject.

The Committee now rose, reported progress, and asked leave to sit again; but before leave was granted, the House adjourned.

THURSDAY, January 3.

On motion of Mr. JOHNSON,

*Resolved*, That the Committee on the Public Lands be directed to inquire into the propriety of designating a portion of the public land, west of the Mississippi river, to satisfy the claims of individuals holding under the act of Virginia of one thousand seven hundred and seventy-nine, and report their opinion to this House.

On motion of Mr. WITHERSPOON,

*Resolved*, That the Speaker address a letter to the Executive of the State of South Carolina, communicating information of the resignation of John Taylor, one of the members returned from that State to serve in this House, that measures may be taken to supply the vacancy occasioned thereby in the representation of that State.

Mr. SEYBERT presented a petition of sundry merchants, manufacturers, mechanics, traders, and other inhabitants of Philadelphia, praying the

renewal of the charter of the Bank of the United States.—Ordered to lie on the table.

On motion of Mr. LOVE, the House proceeded to consider a resolution submitted by him on the nineteenth ultimo; which was again read, and agreed to by the House.

Mr. RHEA, of Tennessee, from the committee appointed on the eleventh ultimo, presented a bill further providing for the government of the Territory of Louisiana; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. PEARSON, from the committee appointed on the twenty-first ultimo, presented a bill supplementary to an act passed the twelfth of February, 1793, entitled "An act respecting fugitives from justice and persons escaping from the service of their masters, and for other purposes;" which was read twice and committed to a Committee of the Whole on Monday next.

#### TERRITORIES OF THE UNITED STATES.

Mr. BABB said it would be recollected that in the course of the discussion yesterday on the subject of admitting the Territory of Orleans as a State into the Union, he had explicitly declared himself in favor of such a course whenever there was information before the House to justify it. The bill now before the House on that subject provided for including in that Territory the tract of country the occupation whereof had recently been directed by the President of the United States. He had said yesterday that, although this step had been taken, the President had given a pledge that the Territory should hereafter be a subject of negotiation; and that in making it a State they would forever preclude negotiation on the subject. Mr. B. said, when the bill again came up, it was his intention to move to strike out the provision relating to this Territory; but before that bill came up, he thought proper to move the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of annexing to the Mississippi Territory, or of creating into a separate Territorial government, the tract of country lying south of the 31st degree of north latitude, and extending from the river Perdido, to a line drawn along the middle of the lakes Maurepas and Pontchartrain, and the river Iberville, to its junction with the river Mississippi.

The discussion of this resolution had progressed to some extent, when a Message was received from the President of the United States.

The SPEAKER, having opened the Message, declared it to be of a confidential nature.

The subject then under discussion was postponed; the galleries were immediately cleared, and all strangers excluded.

The doors were closed the remainder of the sitting; which continued till 4 o'clock.

FRIDAY, January 4.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting an account of the sale of public arms to the State of

Maryland, in obedience to an act of the second of April, which was read, and ordered to lie on the table.

On motion of Mr. JENNINGS,

*Resolved*, That a committee be appointed to inquire into the expediency of opening a road from Vincennes, in the Indiana Territory, to Dayton, in the State of Ohio, and report their opinion thereon to the House.

Mr. JENNINGS, Mr. BOYD, and Mr. CAMPBELL, were appointed the said committee.

Mr. FINDLEY presented a petition of the Synod of Pittsburg, in the State of Pennsylvania, praying that the laws and regulations for the government of the Post Office Establishment may be so altered or amended as to prohibit mail stages and post riders from travelling, and post offices being kept open, on Sunday.—Referred to the Postmaster General.

Mr. BASSETT, from the Committee on the Naval Establishment, presented a bill establishing Navy Hospitals; which was read twice and committed to a Committee of the Whole on Wednesday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making an additional appropriation to supply a deficiency in the appropriation for the relief and protection of distressed American seamen, during the year 1810," with an amendment; to which they desire the concurrence of this House.

The said amendment was read, and committed to a Committee of the Whole to-day.

Another message from the Senate informed the House that the Senate have passed the bill, entitled "An act to fix the compensation of the additional Assistant Postmaster General," with an amendment; to which they desire the concurrence of this House.

The amendment was read, and committed to the Committee of the Whole on the amendment to the bill "making an additional appropriation to supply a deficiency in the appropriation for the relief and protection of distressed American seamen, during the year 1808.

On motion of Mr. STURGES,

*Resolved*, That the President of the United States be requested to lay before this House a copy of his Proclamation issued the 2d November, 1810; and also a copy of the circular letter of the Secretary of the Treasury to the Collectors of the Customs, in pursuance of said Proclamation.

Mr. STURGES and Mr. CAMPBELL were appointed a committee to present the said resolution to the President.

Mr. VAN HORN presented a petition of the inhabitants of Georgetown, in the District of Columbia, praying that Congress will authorize the corporation of said town to clear out and deepen the channel of the Potomac river between said town and the mouth of the Eastern Branch.—Referred to the Committee on the District of Columbia.

The House resumed the consideration of the unfinished business of the 2d instant; and the

question that the Committee of the Whole House have leave to sit again on the said bill being taken, it was resolved in the affirmative.

The House resolved itself into a Committee of the Whole on the amendments of the Senate to the bills, entitled "An act making an additional appropriation to supply a deficiency in the appropriation for the relief and protection of distressed American seamen, during the year 1810," and "An act to fix the compensation of the additional Assistant Postmaster General;" and, after some time spent therein, the Committee rose, and reported their agreement to the amendment to the first mentioned and their disagreement to the last mentioned bill.

The House proceeded to consider the said report of the Committee of the Whole, and the question being taken thereon, it was concurred in by the House.

Mr. MACON, from the committee to whom was referred his proposed amendment to the Constitution, reported the following in lieu thereof, which was referred to a Committee of the Whole:

"No Senator or Representative shall be appointed to any civil office, place, or appointment under the authority of the United States until the expiration of the Presidential term in which such person shall have served as a Senator or Representative."

#### BANK OF THE UNITED STATES.

Mr. BURWELL reported the following bill:

A Bill continuing in force for the term of — the act entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the act to incorporate the subscribers to the Bank of the United States, passed the 25th day of February, in the year of our Lord 1791, be and the same is hereby continued in force, subject to the provisions and conditions in this act specified, for and during the further term of — years, from and after the 4th day of March next.

SEC. 2. *Provided, however, and be it further enacted*, That the President and Directors of the said Bank of the United States shall, on or before the — day of — next, pay into the Treasury of the United States, for the use thereof, one million two hundred and fifty thousand dollars.

SEC. 3. *And be it further enacted*, That the President and Directors of the said Bank shall, at all times, from and after the passing of this act, and during the continuance of the same, be holden and bound to make a loan or loans to the United States, if required and authorized by law, of any sum or sums of money, not exceeding at any one time five millions of dollars, reimbursable at the pleasure of the United States, and at a rate of interest not exceeding six per centum per year: *Provided*, That it shall be the duty of the Secretary of the Treasury to make his application in writing to the President and Directors of the said Bank, for such loan or loans, at least three calendar months prior to the time when such loan or loans shall be required: *Provided, also*, That the sum of two millions seven hundred and fifty thousand dollars, borrowed during the year eighteen hundred and ten, shall be considered as part thereof, and that no greater amount



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shall be required in any quarter of a year than one million of dollars: *And provided, further,* That all such loans shall be reimbursable at or before the expiration of the said term of — years, unless it shall be otherwise agreed between the said corporation and the United States.

SEC. 4. *And be it further enacted,* That, if the said President and Directors shall on any occasion fail to furnish any loan or loans, to be required by the United States, in the manner hereinbefore enacted, their corporation shall forthwith be dissolved, and the power thereof shall cease and terminate, anything in this act, or in the act hereby continued in force, to the contrary thereof in anywise notwithstanding.

SEC. 5. *And be it further enacted,* That the directors chosen by the stockholders of the said corporation on the first Monday of January in the present year, and the president chosen by the directors at the first meeting after such election, shall be capable of serving, by virtue of such elections, until the first Monday in January, eighteen hundred and twelve.

SEC. 6. *And be it further enacted,* That the act, entitled "An act to punish frauds committed on the Bank of the United States," passed the twenty-fourth day of February, eighteen hundred and seven, be and the same is hereby continued in force during the continuance of the said corporation; and the same shall at all times hereafter, and in all respects, be deemed and taken to apply to the said corporation, in the same manner that it has been deemed and taken to apply to the same heretofore.

SEC. 7. *And be it further enacted,* That the President and Directors of the said Bank shall, after the fourth day of March next, pay to the United States an interest at the rate of three per centum per year on all sums of money above the sum of — millions of dollars, which shall accumulate to the credit of the Treasurer of the United States in said bank, or in the branches of the same, and which shall remain there for —: *Provided,* It shall be the duty of the Secretary of the Treasury, from time to time, to give notice in writing to the President and Directors, at least — days before the term or time at which the said interest shall begin to accrue and be computed; which notice in writing shall specify the exact amount of deposit so to remain for the whole year as aforesaid.

SEC. 8. *And be it further enacted,* That the United States shall be authorized, at any time during the continuance of this act, to increase the capital stock of the said corporation, in such manner as may be hereafter prescribed by law, and for which the United States shall be the subscriber, and own to an amount not exceeding in the whole — shares, and not exceeding in any one year — shares: *Provided,* That, during the time the United States shall so hold stock in the said corporation, they shall have the right to appoint, in such manner as shall hereafter be declared by law, a number not exceeding — of the directors: *And provided, also,* That the shares thus to be subscribed and added, by and on behalf of the United States, shall not be sold at a price less than — per centum advance on each share.

SEC. 9. *And be it further enacted,* That the twelfth section of the before-mentioned act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed the second March, seventeen hundred and ninety-one, be and the same is hereby repealed.

SEC. 10. *And be it further enacted,* That it shall be the duty of the President and Directors of the said Bank,

on or before the — day of — next, to signify to the President of the United States, in writing, their acceptance, in behalf of the said corporation, of the terms and conditions in this act contained; and if they shall fail to do so, on or before the day above-mentioned, then this act shall cease to be in force.

Mr. BASSETT said he had a Constitutional objection to the bill, and could not by his vote, sanction it in any shape. He therefore moved that the bill be rejected. He did not wish to discuss the motion to-day, but would rather it should lie over till Monday. He made his motion now, to enter his protest at the threshold against the bill on Constitutional grounds. He had hoped the committee, who had the subject under consideration, would have submitted the question of constitutionality, in some shape, before they had gone into details; that not having been the case, he was compelled to make this motion.

Mr. BURWELL concurred with his colleague in his objections to the principle of the bill. It was his decided conviction that the Constitution did not give to Congress the power to establish a Bank of the United States. This being his impression, and a most deliberate one, because he had viewed the subject in every light he could, in the situation he occupied as a member of the committee, he could not but vote for the rejection of the bill; although he had intended to move that it should take the usual course of all bills. In this whole business he said he had been guided by the instructions of the committee. When first the subject had been presented to the committee, he had urged the same objections as were now stated; but without effect. On the details of the bill the committee had differed very materially, and reporting it in its present form was the result of a mutual accommodation, in order to bring the subject before the House. The bill as now reported, he said, was very similar to the one reported to this House at the last session; it differed but in two points, the one was, in repealing the 12th section of the act of 1791, which precluded the Government from establishing any other bank, the other in authorizing the Government to increase the capital and take shares itself with a proportionate direction. If the question of rejection was put, he was bound to vote for it, because he could not vote for the renewal either on the grounds of constitutionality or expediency. But he thought it would be fair to take up the discussion at a future day; and, if a majority should be really of opinion that the Constitution had given to Congress the power of establishing corporations within the limits of the States, without their consent, that they might have an opportunity of making the bill as favorable as they could, and guard against all the abuses to which such an institution was liable. It was important in every point of view that it should be decided as speedily as possible, whether as it regarded the people, the stockholders, or the pecuniary arrangements of the Government. If the gentleman would consent to postpone the discussion of his motion to Monday, it would meet his approbation.

Mr. BASSETT, complying with the wishes of

his friend, withdrew his motion for rejection, and moved to postpone the further consideration of the bill to Monday. One of the great arguments used in favor of the renewal and against the Constitutional objection, was the acquiescence of the States in the act; he was desirous to reject this bill before arguments of an acquiescence on the part of this House could be drawn from their consideration of it.

Mr. MITCHILL said he was against the motion for postponement; the chairman of the committee, he said, had well expressed the reasons which had induced the committee to report this bill. They had been disposed to bring this subject before the House, that it might be there acted on in Committee of the whole House. The gentleman from Virginia, (Mr. BASSETT,) who had first spoken, had expressed his manly and honest disapprobation of the bill, and had protested against it as unconstitutional. Mr. M. said he wished, after having expressed his opinion, that the gentleman would have permitted this bill to take the ordinary course of bills. That was the wish of the committee. The bill contained an insulated section for renewing the charter, a motion to strike out which would give ample scope to debate on the Constitutional question.

Mr. GHOLSON rose to make a question of order, whether, when objection was made to its passing to a second reading, any motion in relation to the bill could be received, unless to *reject* it. Believing the bill to be unconstitutional, and feeling himself bound by his oath to vote against it in all its stages, he was desirous to take a vote on rejection.

MESSRS. BASSETT, GHOLSON, PITKIN, BURWELL, NEWTON, and SHEFFEY, spoke to the question of order.

The SPEAKER decided that, when opposition was made to the second reading of a bill, the motion of rejection superseded every other motion, except a motion of adjournment.

Mr. GHOLSON renewed the motion to reject the bill.

Mr. SHEFFEY intimated that as he was not satisfied that it was within the power of Congress to pass such a law, and therefore wished the subject discussed, he should vote against rejection.

Mr. MACON said this was a great question, touching the whole moneyed interest of the nation, and materially affecting the collection of the revenue. He was as clearly of opinion that it was expedient to renew the charter, as he was that it was unconstitutional. He did not believe the wisest men among them could tell the evils which would result from the dissolution of the bank. Nothing but the most perfect conviction in his own mind that they had not the power to pass the bill would compel him, when the question was put, to vote against it. A decision ought not to be delayed. They must decide whether they would take the paper of the State banks or leave a power in the Secretary of the Treasury, or somebody else—as great a power almost as could be given—to say what State paper should be received, in payment of the revenue, or whe-

ther nothing but specie. He was against any postponement.

Mr. SOUTHARD said, he thought it would be proper to permit this bill to take the common course. He could not see anything so very obnoxious in it as to induce the House to reject it. He was himself unfriendly to the renewal of the charter; but, as the people were much interested, and petitions on the subject have been received from many respectable citizens, it was their duty to meet the question fairly, to give it that consideration which the importance of the subject required. His reason for voting against the rejection was, that they should meet the question fairly.

Mr. SEYBERT said, if he was compelled to give a decisive vote, he must vote for the rejection of the bill. Nevertheless, he was very willing to hear the subject discussed, and to receive light on it. He thought gentlemen were too much in a hurry. This was a subject in which the whole Union was much interested, and ought to be fully discussed.

Mr. DAWSON said, that although he believed the bill unconstitutional, he must vote against rejection, because he believed it ought to be fully discussed.

Mr. BACON said he was opposed to the bill on Constitutional grounds; but his mind was not so fully made up; he had not so much confidence in his own infallibility, that he would reject all discussion. He should therefore vote against rejection; but he hoped that this vote would not be considered as precluding him from voting against the bill.

Mr. SMILIE said, whatever they might ultimately do, the question was of too great magnitude to be decided without debate. It was a respect due to the interest which the subject had excited in the public mind that it should take the usual course of business. He hoped the House would not reject the bill without hearing the arguments in favor of it. By voting against rejection, he did not consider himself committed as to his future vote.

Mr. WRIGHT said, he wished the subject postponed to Wednesday next. If the gentleman from Virginia would consent to withdraw his motion for rejection, it would be a great accommodation, and give an opportunity to examine the subject. His present impression was, that no charter ought to be granted.

Mr. GOLDSBOROUGH said, that the vote on this question would not be conclusive of anything. He had been happy that gentlemen, in principle opposed to the bill, had declared that they should vote against rejection because they wished for discussion. He hoped no gentleman would consider himself committed by this vote; he certainly should not.

Mr. MCKEE said he had not expected that so great a question as this was to have been decided in a few hours. He had reserved to himself time to examine difficulties in relation to the subject; and, not having done so, must now for that reason vote against rejection.

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Mr. GHOLSON had supposed, that, as the question of constitutionality had been the subject of discussion for twenty years past, every gentleman's mind was made up on it; but, seeing so many gentlemen unfriendly to the bill about to vote against rejection, and finding that the question, when taken, would decide nothing, he withdrew the motion for rejection.

The bill went to a second reading of course, and was referred to a Committee of the Whole.

#### TERRITORY OF ORLEANS.

The House resolved itself into a Committee of the Whole on the bill for admitting the Territory of Orleans into the Union as an independent State, &c.

Mr. WHEATON.—Whenever a bill is offered for our sanction, in order that it may become a law, it is proper, before we give it such sanction, that we should inquire whether the subject of it is such as we have Constitutional authority to legislate upon; and if so, whether, from a consideration of time and circumstances, it be expedient so to do.

It appears to me that the bill now before us is objectionable on both these grounds, and, if so, there is a double reason why it should not pass. A few moments will be sufficient for the remarks I have to make upon either; and, if they shall be deemed of no consequence, there will be this consolation, that they will have occupied but very little time.

The subject of this bill is the Orleans Territory, and the object of it, to form that Territory into a State, the people of which are to be subject to the same duties, and entitled to the same privileges, as the people of the United States in their federative capacity. It will be observed that our Constitution, by its enacting clause, was ordained and established for the *then* United States of America. The United States being thus included, implies an exclusion of all others. It may, therefore, be fairly concluded that those that framed this Constitution, and those that adopted it, never intended that its immediate operation should extend to any people that did not then, or that should not thereafter be included within the limits of the United States; that they did not intend to enter into a partnership of this sort without some knowledge of those that should compose it, lest the improper conduct of some might end in the ruin of all. The Territory of Orleans certainly was not within the limits of the United States when the Constitution was established. It was known to be otherwise. The people there were foreigners to us, and subjects of another Government. That it could not have been intended that the Constitution should embrace these people and this Territory, may be argued from the extreme danger of carrying the principle into operation. If we may extend our limits at all, without the consent of the people, further than what is expressed in the Constitution, who can tell where will be our ultimate bounds, or what number of States we may have in the Union? Purchase and conquest are ob-

jects of ambition. The great Napoleon may have more land to sell, and Spain now possess what she cannot retain. May we not, in time, have the whole of South America, some of the West India islands, and, possibly, Great Britain? And if so, upon the same principle that we form the Territory of Orleans into a State, we may form these Territories into as many separate States as we please, and admit them into the Union with all the powers and privileges that any of our States now possess and enjoy. Then, what will become of the Old United States, who first entered into the compact contained in the Constitution, and for whose benefit alone that instrument was made and executed. Instead of these new States being annexed to us, we shall be annexed to them, lose our independence, and become altogether subject to their control. Besides, it may be recollected, that, when our independence and national existence was acknowledged by the other nations of the world, the Territory now proposed to be received into the Union made no part of the United States so acknowledged; if, therefore, this be done, a jealousy may be created in those other nations, and, possibly, they may have some reason to complain that, in addition to the immense increase of population within our ancient limits, we should extend our boundaries so far as to include other-countries. This, however, by those who justify the Governments of other nations in the pursuit of their projects for universal domination, will be thought deserving of very little consideration. But, it may be well questioned how far the taking of positions that may lead to war comports with that pacific disposition which the people of the United States have been so anxious to maintain; and, whether the obligation they have placed themselves under, by adopting the Constitution, to guaranty to every State in the Union a republican form of government, and to protect each of them against invasion, can be made to extend to the Orleans Territory, or, whether the President can have any authority to send our militia there to repel any invasion or suppress any insurrection that may happen there, are inquiries worth some attention before we pass this act. And there will be found another difficulty in the way of carrying the object of it into full effect. If the people of that Territory are admitted into the Union as a State, on an equal footing with any of the *now* United States, they will have a right to send to our Legislature not only Representatives in proportion to their numbers, but, also, two Senators, and the Constitution makes it a necessary qualification for a Senator that he should have been a citizen of the United States at least nine years, a period further back than it can be pretended that any of the people of that Territory ever belonged to the United States, unless they be emigrants, and have not, thereby, lost their citizenship. And a President of the United States they never can have from among their own people, unless he be yet to be born; for no person except a natural born citizen, or a citizen of the United States at the time of the adop-

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tion of the Constitution, can be eligible to the office of President. But, it has been said that Congress have already passed a law, wherein they have stipulated with those people, that they shall be formed into a State when they shall have gained a certain number of inhabitants. In answer to this, it is sufficient to say that, if it be incorrect to promise to do a wrong thing, it is more incorrect still to do it. If this bill be unconstitutional, so was that law.

But, in opposition to all this, it will, undoubtedly, be said that several new States have been formed by Congress since the adoption of the Constitution, and that they are well authorized by that instrument. This is admitted. "New States may be admitted by the Congress into this Union." But, if we look into the article where this authority is to be found, we shall find it applicable to the territories then included within the limits of the United States, or to a division of some of the States then already formed; beyond which, it is believed, this authority has never been exercised. The Old Confederation did expressly authorize the admission of Canada into the Union, but the present Constitution does not. If such an authority had been proposed to have been given to Congress by it, perhaps it had never been adopted.

If, however, it should be believed that this bill might pass into a law, in strict conformity with the spirit and letter of the Constitution, it is apprehended that the measure would be extremely impolitic and inexpedient at the present moment. We have not even the possession of a part of the country proposed to be embraced by this bill, and both title and possession have been disputed. It is true we have bought the whole country, and dearly paid for it, but still, if we have not a just title, we ought not to expect to hold it; and it is now admitted to be a subject of negotiation; and, even if our titles shall be found to be good, and we gain a peaceable possession, still, if we have a right to buy a thing, I know not why we may not sell it. But, as the expediency of this measure has been considered by other gentlemen, I forbear to add to the remarks I have already made.

Mr. MILLER said it would be observed that there were two applications to this House for admission into the Union as States; one from the Mississippi Territory, and the other from the Orleans Territory. The latter only, said he, is contemplated by the bill before you. Neither of these Territories have the number of inhabitants required by law to enable them to demand their admission into the Union as a matter of right. It may, therefore, be said with propriety to be an application for a favor, going directly to an amicable discussion, and which we may grant or refuse without running the risk of breaking any legal or moral obligation.

It has been objected against the bill that the population of the State proposed will not be American. Without intimating how far this consideration may have influence on my mind, under the circumstances in which that country has been lately placed, I cannot, however, but re-

mark that it is natural for man to carry his feelings and prejudices about him. I was born in Virginia, sir, and I have not yet lost some of my Virginia feelings, notwithstanding an absence of fifteen years, and I cannot see why we should expect the people of Orleans to act and feel differently from other people, more particularly, when the French nation is towering so far above the other nations of the earth; they will have a secret pride in their glory, they will have some attachments, to what extent I cannot say; but, inasmuch as we know that if we send Paddy to Paris, that Paddy he will come back, the idea is certainly not unworthy of our consideration.

The bill on your table has another objection, of some weight with me, in relation to its policy. You propose to do them a favor by granting them an admission to the rank of other States before they can legally demand it, and, at the same time, you propose terms beyond which they cannot go. This, sir, resembles very much a polite invitation to walk in, but under an injunction to see that your feet are well cleaned, and your toes turned out. It is a niggardly sort of policy that I am sorry to see engrained in the bill. If you design to be liberal, be so; do not destroy your liberality by an ungenerous sentiment.

Again, sir, there are objections to the bill, as presented, that renders it impossible for me to give it my sanction. It will be seen, sir, that the bill proposes to annex that portion of West Florida in dispute between this and the Spanish Government to the State to be formed out of the Territory of Orleans. The President has declared to the world that this portion of the country, in our hands, shall be subject to mutual arrangements, hereafter to be entered into between the two Governments. But, once annex it to a State and the power to negotiate ceases. What power have we to negotiate about the territory of any of the States? We have none.

Again, sir, I never will consent that the bay of Mobile shall be annexed to any State which includes New Orleans and the mouth of the Mississippi, unless, indeed, they are both included in the same State with the whole country north, up to the Tennessee line.

If you annex West Florida to the State to be composed of the Orleans Territory, they will then possess a narrow slip of the country, including nearly the whole of the seacoast of Orleans, (including the bay of Mobile,) with a most extensive up-country, composed of a great part of the Mississippi Territory, and, I may say, Tennessee, wholly dependent on them, perhaps, for leave to go out into the bay, and, certainly, for the improvement of its navigation. And this, sir, is rendered more probable, as we know men act mostly for their own interest. And, as New Orleans, from its present population, will govern the councils of that State, let me ask, sir, if it will not be their interest, as much as possible, to divert the trade and capital from the Mobile to the Mississippi? And what security have we that she will not do so? None; and, from the nature of our Government can have none.

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Upon the plan I propose, from the extent of the country proposed to be annexed, the people who inhabit it, in time, will have the preponderance, and their interest will dictate the proper course to be pursued in relation to the free passage of the Mobile.

We may, also, with some certainty, pronounce that the population of the Mississippi, if it is not now, will, in a few years, be the greatest slave population, in proportion to the whites, of any country in the United States. Is it, then, of no consequence to have those settlements so connected with others, composed of whites, as that they may, at all times, be able, within the limits of their jurisdiction, to suppress insurrections of that sort? Is not this a consideration that ought to be taken into account? I, therefore, move you, sir, to strike out the whole of the bill, from the words "a bill," for the purpose of inserting a section, by way of amendment, the effect of which will be to consolidate both the Territories into a single State, which will include the whole of the country belonging to the United States, east of the Mississippi, and south of the State of Tennessee. This plan will avoid the objections made to the want of numbers, and will give, also, an American population to the State, if that should be desirable; and will, also, avoid the difficulty occasioned from the situation in which West Florida is at this time placed. To this plan I can see but one objection that ought to have any sort of influence, and that, sir, exists more in idea than reality. It is to the size of the proposed State. Divide and subdivide this country as you will, their interests, in a political point of view, will be the same. Their representation in this House will neither be increased nor diminished by a consolidation. In the Senate, the plan proposed is greatly to the advantage of the old States. In that House, they will have but two Senators instead of four or six, according to the number of States that may be made.

There is, also, no legal objection to this plan. The Treaty of 1803 with the French Republic, only provides for their admission into the Union, without regard to their territorial limits, and there is no law repugnant to the plan.

Mr. RHEA of Tennessee said, he was opposed to and would vote against the proposed amendment; it appeared to him that the design of this amendment, like others which had been offered, was to delay and prevent the passage of the bill. At that time, it was more than probable the state of things required more action and less delay; even caution itself might exceed the limits of prudence and sound understanding. It is denied that Congress have power to alter the boundaries of the Orleans Territory in the manner contemplated by the proposed amendment. The Treaty of Paris is peremptory on this subject; and although Congress may have power to alter the boundaries of the Territory of Orleans as it respects itself, which at this time is doubtful, there is no power to alter them so as to annex part of that Territory to another territory. The third article of the Treaty of Paris has provided, that

the people of Louisiana, that is, the people of Orleans Territory, as now formed, shall be incorporated into the Union of the United States and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens, not by divisions and subdivisions which might procrastinate their admission for fifty years to come, not by dividing them and annexing them in part to another territory or territories, but by themselves, undivided, as an integral whole. The treaty alluded to is the act of this nation; it is a solemn compact, made between the United States and the French Republic; it is by the Constitution a supreme law of the land, irrevocable and peremptorily commanding execution in every part to the full extent. That treaty was made on the 30th of April, 1803, in the same year the people of Orleans Territory and the entire Province of Louisiana were solemnly delivered over to the United States, and from that time to this, about seven years, they have been the people of the United States; and it is strange, wonderful strange, indeed, that attempts shall now be made to prevent those people from the enjoyment of all those rights, advantages, and immunities, which the French Republic secured to them and the United States have confirmed by ratification of that treaty. The people of Orleans are anxiously desirous to become a State, and, by the best information had, their population appears sufficient.

It may be improper, said Mr. R., to admit the people of the Territory of Orleans as a State into the Union, without conditions. In that Territory is a great quantity of lands the property of the United States; these lands the United States are bound to pay for to the persons to whom the French Republic has transferred the evidence of the debt; and although the people of the Territory of Orleans do not set up any pretension of claim to the said lands, it nevertheless is prudent, to the end that difficulties may be prevented, to have a condition in the terms of their admission, that they shall never interfere with the right of soil, or any measure Congress may deem proper to adopt, to secure the title in *bona fide* purchasers. Because it is probable they will have a large black population, and therefore, to prevent insurrection, it is necessary to annex them to the upper country, to the end, that the upper country may defend them in times of such contemplated insurrection, is not of force to cause Congress to violate a solemn treaty; besides if such insurrection ever will be, the upper country can as well defend them therefrom, unconnected as connected. To suppress all such insurrections is the business of the Union, and Congress have ample power to call out sufficient force from any point of the United States to suppress all such insurrections, if a sufficient quantity of folly at any time may exist to incite and promote insurrection against the laws of the Union. It is not to be presumed, much less to be drawn into argument, that the people of the Territory of Orleans, when a State, will ever attempt to prevent the people of Ten-

nessee from passing their produce to the ocean by the way of Mobile, and in so doing to force them to pass it down the Mississippi to New Orleans. The passage of the produce of Tennessee to the ocean by way of Mobile, will be as beneficial to the contemplated State of Orleans, as if it passed by the way of the Mississippi; but if the State of Orleans should ever attempt an act of such superlative demeritation, how would it be executed? Would it be by force or by imposition of duties? To attempt it by force would be more than madness; to attempt it by imposition of duties is out of all reason. The 8th, 9th, and 10th sections of the first article of the Constitution of the United States have amply provided against an assumption of power of that nature. What therefore has been urged in support of the proposed amendment appears to be without foundation. But, sir, the amendment proposes to form into one State all the extensive country south of the State of Tennessee and east of the Mississippi river, a country greater in extent than Virginia. The bad policy of such a measure is so apparent, that it is improper to waste time talking about it.

Suffer me, sir, said Mr. R., to take some notice of what has been said by an honorable member of this House relative to the principles of the bill. We have been told by that gentleman that though States may be admitted into the Union, no territory which did not belong to the original States can be admitted to be a State. I, said Mr. R., do solemnly protest against this doctrine, and do deny its constitutionality. It is with States as with individuals; if an individual, the head of a family, purchases a farm adjoining that on which he lives and resides, and probably acquires all the right and title thereto, will any one deny it to be his? Will any one say that he has not power to incorporate it with his former farm, so that both shall be one, or in other words, that purchased with the other shall be but one? It is believed no one will say so. The purchaser, sir, can do more; he can place his son or sons thereon, and although so placed, and out of their father's house, they will still remain belonging to the family. The United States, a sovereign, have power to purchase adjacent territory. If all the territory of Louisiana had been vacant and unsettled, and citizens of the United States had from time to time purchased lands therein, and settled themselves and families thereon, and in time became sufficiently numerous to form a State, on the ratio of representation, the Constitution of the United States has fully provided in that case for their admission into the Union. If they cannot be admitted into the Union, will the gentleman tell us what he would do with them? how he would dispose of them? how he would govern or manage them? He appears unwilling in that case to manage and govern them united in the social bands of friendly union; it remains then only for him to govern them under a despotic rod of iron in the hand of unrelenting tyranny from age to age. What difference is there between the case of the people of the Territory of

Orleans as they now are, and the case alluded to? Only this: in place of a waste, wild, and uncultivated territory, the United States obtained in an honest and righteous manner, without blood and carnage, a fruitful, luxuriant territory, covered by a great number of people, who, since the time of their being ceded to the United States, have manifested, as much as in their power, their attachment and allegiance to the United States; and shall they be the worse for that? They have heretofore told you, sir, and they now tell you again by their memorial that they pledge themselves, and do solemnly swear allegiance and fidelity to the nation, and do consider themselves a part thereof; and shall not their solemn declaration be believed? or shall a jaundiced jealousy forever prevent them from the enjoyment of the rights, advantages, and immunities, so solemnly guarantied to them? But if the objection of the gentleman could at any time heretofore have had weight, it now comes too late. The United States have acted on the treaty; they have enacted two laws providing Territorial governments for the people of Orleans, and they are solemnly bound and pledged to progress with them until they do admit them into the Union on the footing of the original States. I am almost certain, said Mr. R., that the gentleman who made the objection, clothing himself with the mantle of peace and brotherly love, will, on more mature reflection, cease to press his objection, and will hold out to the people the right hand of fellowship, and say to them: come, my brethren, we are all of one family, let me embrace you.

It has been said by the same gentleman, if you make these people a State where will they find Senators? That, said Mr. R., is not an inquiry for the consideration of this House. Let them be a State, and find Senators how and where they can. The qualification of Senators is not to be ascertained by this House. When they are a State and send Senators to Congress, the Senate of the United States will judge of the qualifications. Here let this point rest, and objections relative to the senatorial order cease.

The same gentleman, if I understood him right, said if we do go on this way we may take the West India islands, and even Great Britain herself, and make them States; and suppose, said Mr. R., that that hereafter shall be the case, it is as reasonable to suppose that that hereafter may be so, as it was one thousand years ago to suppose that Great Britain would now hold sovereignty over the Mogul Empire. But, said Mr. R., if it would please the Almighty Maker of worlds to move the foundations of the West India islands, and place them close alongside of the United States, I would have no objection to the admission of them as States into the Union, if the people thereof were willing. And if the same Almighty Maker of worlds would please, by a tremendous convulsion, to tear up the firm, adamantine foundations of the fast-anchored isle of Britain, and to place it in contact with the United States, I would, with all willingness, give my consent to admit it a State into the Union,

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provided the people thereof consented thereto, and I would embrace them, and call them my fellow-citizens and brothers of the same family; but a boundless ocean, and the destinies of nations, forbid the hope of such events. It has been said that Orleans is vulnerable, and therefore you ought, sir, to keep the government in your own hands. I draw a conclusion directly contrary. If Orleans be vulnerable, give the people thereof everything to defend; they have now themselves, their wives and children, and their property only to defend; give them all the rights of freemen and citizens, to the full extent of the term, to defend; let them have self-government; let them have all the rights of citizens; let them have a constitution and State government, and a sovereignty to defend, and then, and not until then, you will make them warriors indeed; they will then fight for themselves and for the United States, if invaded, because they will then have everything worth contending for, and because you have liberally endowed them with all these things, their grateful hearts with irresistible vigor will strengthen their arms to wield the sword against the enemies of the United States.

The object of the bill is not to transfer a part of a State to a foreign territory, nor is it to favor a French population at the expense of the rights of the United States, nor is it the object of the bill to transfer to foreigners what has been obtained by the blood of the old States. The Territory of Orleans is not a foreign territory; it is a territory of the United States made and declared to be so by two solemn laws of the Congress of the United States, bottomed on the irrevocable treaty of Paris. The population of the Orleans Territory is not a French population; whatever that population was, before the treaty alluded to, it is now and for about seven years past has been a population composed of citizens, to a certain extent, of the United States. Nor is it the object of the bill to transfer to foreigners what has been obtained by the blood of the old States. The bill contemplates to make the Territory of Orleans a State; the population of that Territory is composed of citizens, to a certain extent, of the United States; whatever the bill therefore contemplates to give, it proposes to give to citizens of the United States. The United States of America, with a vast profusion of precious blood, and with a great expense, purchased the rights of freemen, self-government and independence to themselves, and therewith also the right and ability to communicate those sacred rights to people of all nations, tongues, and kindreds, who, at any time, embodying themselves within the United States, according to the laws thereof, or being inhabitants of territories contiguous thereto, the United States might deem proper, at any time, the consent of all parties interested therein being peaceably obtained, to adopt as their own, to embrace them as their children, and to bring them with parental affection into the bosom of the American family.

If it could be made appear that the United States would become poorer or weaker by giving

to the people of Orleans what they request, there would be some reason to argue against the bill; let them be a State, and the United States will be more powerful, because the more numerous an agreeing family is, the more powerful it is; let them be a State, and they will be more induced as citizens to acquire wealth by industry, and every increase of their wealth will be an increase to that of the United States.

Mr. GHOLSON said that the observations of the gentleman from North Carolina (Mr. MACON) had rendered it unnecessary for him to make many of the remarks to the committee which he had intended. In no point of view, said Mr. G., in which this subject has been considered, can I perceive any reason for adopting the amendment offered by the gentleman from Tennessee, (Mr. MILLER.) If that gentleman will only advert to the treaty of cession between France and the United States, and to the act of Congress passed pursuant to that treaty, he will readily discover that the amendment he proposes cannot be sanctioned without a manifest violation of public faith. By the third article of the treaty, it is stipulated that "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." On the second of March, 1805, Congress proceeded by an act of legislation to fulfil this engagement with France; and accordingly, by the 7th section of that act, provided "that whenever it shall be ascertained by an actual census or enumeration of the inhabitants of the Territory of Orleans, taken by proper authority, that the number of free inhabitants included therein shall amount to sixty thousand, they shall thereupon be authorized to form for themselves a constitution and State government, and be admitted into the Union upon the footing of the original States, in all respects whatever, conformably to the provisions of the 3d article of the treaty concluded at Paris on the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic." Now if to the Orleans Territory you add the Mississippi Territory, and of the *two* erect *one* State, you evidently will not comply either with your stipulations with the French Republic, or with your covenant to the Orleans Territory. For, by these you have agreed that Orleans shall become a State, and not part of a State only; and there is a wide and substantial distinction between incorporating that Territory, together with other Territories into a single State, as but a fractional part thereof, and authorizing the people of that Territory "to form for themselves a constitution and State government, and to be admitted into the Union upon the footing of the original States." In the former case they may possibly have no influence whatever in appointments to the other branch of the Legislature, and all their interior regulations may also, by possibility, be dictated to them by

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an ascendant population in the remainder of the State. In the latter case they will, of course, have the entire direction in regard to their system of police and their State institutions, and will moreover have a right, not participated in by any other persons, of sending two Senators to Congress. In fact they will be a distinct State sovereignty. Surely, then, there is a great and obvious difference between what we have so often promised these people, and what is now proposed for them.

But it is contended by the gentleman from Massachusetts (Mr. WHEATON) that Congress have not the Constitutional power to form a State of the Territory in question, inasmuch as it was acquired by the United States since the adoption of the Constitution. When to adjust this difficulty we refer to that instrument, we find but one section on the subject, which is in the following words: "New States may be admitted by the Congress into this Union, but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of Congress." In this delegation of power I can perceive nothing to warrant the inference that it is confined to such territory only as the United States then possessed, or that it excludes the incorporation into the Union of subsequent acquisitions. Indeed this is altogether a novel doctrine, and all the interpretations of the Constitution have been contrary to it. Upon examination, I presume it would prove too much even for its advocate. For, if the construction insisted on would exclude Orleans from the Union, it would likewise exclude the Mississippi Territory, since the latter as well as the former was acquired by the United States posterior to the adoption of the Constitution; and the gentleman has not applied his doctrine to the Mississippi Territory; nor will it. I imagine, he attempted to be shown that the Mississippi is to be shut out of the Union, contrary to our engagements to Georgia, when she ceded to the United States that Territory. The gentleman himself will, perhaps, abandon this ground upon a better consideration of it.

It has been with extreme regret, sir, that I have heard so often, and upon so many former occasions, as well as in the present debate, the charges of French influence and disaffection to this Government, made either in express terms, or else intelligibly insinuated, against the people of New Orleans. Suffer me to ask, sir, where are the evidences to support these imputations? Certainly not before this House. Gentlemen may have received from extraneous sources such impressions on their own minds. But if we examine the history of these people since their connexion with us, abundant testimony will be found, not only to exonerate them from the charge of disaffection, but to demonstrate their fidelity to the American Government. When on the acquisition of that country the most radi-

cal innovations upon its laws, customs, usages, and civil proceeding were introduced, these people peaceably submitted without any symptom of insurgency. When they saw many of their dearest rights endangered or prostrated by new and unprecedented modes of judicial proceeding, and by the chicanery of desperate adventurers, they made no unlawful appeals for redress. When their port of entry was most unwarrantably wrested from them and delivered into the possession of an individual, they awaited the ordinary process of law to be reinstated in that use of it which nature had decreed for them, and of which they could by no earthly power be rightfully deprived. And when, in fine, your very borders were invaded they, as faithful citizens, were ready to defend them.

It is to acts like these that I would refer to decide the question whether the people of Orleans are disaffected to this nation.

Mr. BIBB conceived that the House could not adopt such an amendment as that proposed, without the consent of Georgia; for without her consent, they could not make an addition to or division of the Mississippi Territory. It was true, he said, that he had on a former day proposed to make an addition of territory to the Mississippi Territory, but it was only during such time as it should remain a Territory. To this there could be no objection, as there was no prohibition to it in the compact. It had been his intention, if the House had thought proper to sanction his motion, to have made a proposition to the State of Georgia to admit that territory to be incorporated with the Mississippi. The amendment now offered evidently proposed a violation of the compact with Georgia.

Mr. MACON said this bill had taken rather a curious course. The principle and detail had both been attacked; and yet no proposal had been made to try whether the House would legislate on the subject. He had proposed an amendment to do away some of the objections to the detail; but instead of being allowed to amend the bill, the House were met by a Constitutional objection, from the gentleman from Massachusetts (Mr. WHEATON) to the power of Congress to make a State. If this objection was good, Mr. M. said, he admitted the bill ought not to pass; for, Mr. M. said, on this point he could not agree with the gentleman from Tennessee, that because a treaty had been made in relation to it, it was too late to object to the constitutionality. Mr. M. said no; it was never too late to return to the Constitution. If the article of the Constitution, however, did not mean that Congress might take States out of new territories, what did it mean? There was no occasion for it in relation to the old territories; for the ordinance of the Old Congress had secured to them the right; and these ordinances were as binding as the treaties which Congress had entered into. The change of the form of Government did not affect national obligations. The right to become States was one which Congress could not take from the old Territories. The right of creating States out of ac-



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quired territories, was one which he had always contended for; and it had been stated by at least one of those who formed the Constitution, that this article had reference to Canada. "New States may be admitted by the Congress into the Union." At the time this provision was made, Florida and Louisiana were not thought of. Canada was the territory kept in view. Much, sir, said Mr. M., as the United States wanted the southern country, and great as is the convenience of possessing it, I never would have consented to have taken it to have kept them in Territorial government forever. I do not want provinces. I am extremely sorry, sir, that whenever this subject is agitated, we are met by the objection that these people are of French descent. I have before expressed my opinion on this subject, and it is needless to repeat it; but if gentlemen wish them to become our brethren in reality, make them our equals; act just towards them. Do unto them as you would they should do unto you, and make them your friends. I know an opinion is entertained that only those who are of the favored race can be free. I know, sir, that the English nation has been freer than any other; but the time has been that Holland Sweden, and others, have been free—power, however, overcame right, and the people lost their liberties.

I cannot consider it any question for our consideration, who shall be their Senators and who their Representatives. They have had some time a delegate, and will find delegates in the Senate as well as the House of Representatives. It seems to me, sir, that the gentleman from Tennessee need not to have referred to the dispute between the Potomac and the Delaware, because the Constitution has put an end to these sources of strife. It is true, sir, that the Orleans Territory is a slave country, and I would be glad if they could get clear of them; but that does not at all affect this question.

The present situation of Mobile and Orleans is the reason why I want some alteration in the bill. I would rather not have them under the same Government. I have endeavored to ascertain the present population of the Orleans Territory, so called. There is a difference of opinion among those well informed on the subject, from 45 to 55,000. He wished gentlemen would permit them to try the question on the principle of the bill, and ascertain whether the House would do anything with it or not.

Mr. POINDEXTER observed that the proposition of the gentleman from Tennessee for incorporating the present Mississippi Territory with West Florida and the Island of Orleans, to the sea, with a view to form of the whole one State, did not meet his approbation. From the Tennessee line, which would be the northern boundary of the State, to the confluence of the Mississippi with the bay of Mexico, is a distance of from eight hundred to a thousand miles, in the nearest direction, and following the meanders of the river not less in my opinion than twelve hundred miles. Taking the distance generally from the Mississippi to the Georgia line, I should judge it

to be about five hundred miles, and from the northernmost point of the State of Georgia to the junction of the Chatahoochee with the sea, cannot be far short of a thousand miles. This vast tract of country, in my humble conception, is too extensive for the purpose of local State government. Indeed, sir, it could hardly be expected, over such an immense territory, interspersed with numerous tribes of Indians, that even the Executive functionaries of Government could be able to perform their duty in the execution of their laws.

That geographical limits, other than those which now divide the Orleans and Mississippi Territories, might be designated, to comport more with the future convenience and prosperity of the country, cannot be denied. I would suggest for the reflection of gentlemen who have to act on this subject, the expediency of making the great river Mississippi the high road between the Eastern and Western States, to be formed on its waters; that no one State should possess both banks of that river. In that event to commence on the eastern shore at the mouth of the Yazoo, in latitude 32° 30'; thence in a direct line to the head-waters of the Chatahoochee, thence to the sea, and along the coast, in a southwestern direction, to Lake Barrataria, thence up the Chafalaga to its junction with the Mississippi, and thence up that river to the mouth of the Yazoo. This tract of country would include about three degrees of latitude; it would combine all the settlements on the Eastern side of the Mississippi, except the county of Madison, which could be disposed of as the wisdom of Congress might hereafter direct. There are various political considerations which operate in favor of the formation of such a State. The people of the Territory of Orleans are petitioning to become an independent State, and I for one hope the prayer of their petition will in substance be granted. It is said that the French population of the city of New Orleans are unfriendly to the American Government. That they have strong prejudices in favor of France. Although, sir, I do not attach so much importance to that circumstance as some gentlemen do, I am willing to admit that French emigrants in Louisiana feel an attachment to their native country. I do not blush to say that were I in France, or in any other foreign country, I could never forget that I was born an American citizen. I could never relinquish my attachments to the land of freedom, in which I inhaled my first breath. Judging, therefore, of the feelings of others, by my own, I cannot doubt that many influential French inhabitants of New Orleans entertain a predilection for the country which gave them birth. But, sir, within the limits which I have submitted to the consideration of the Committee, there is an American population at least sufficient to neutralize every exotic prejudice which may exist in New Orleans. A people whose origin, whose feelings and principles are American, and who are prepared to rally around the standard of the Constitution, in every scene of difficulty and of danger.

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There is another consideration which has weight on my mind, in favor of such a division of these Territories. The State to be formed would command the mouth of the Mississippi and Mobile rivers—the great outlets to the commerce of the western portion of the United States. It would be sufficiently extensive to contain a population of one million of inhabitants.

The variety of climate and soil which it contains affords a sure basis on which to predict the rapid increase of its physical strength. We might, therefore, at some future day, not far distant, rely with confidence on the internal resources of such a State, for the defence of these important positions against the sudden incursions of a foreign force. The deep interest which the people residing on these waters must feel, in preserving a communication with the Atlantic States, would stimulate them to repel at every hazard an attempt to disturb that intercourse. A powerful State on the southern seacoast of the United States is an object of great magnitude in perpetuating the Union, which, for the happiness of the great American family, ought never to be dissolved. I have, sir, thrown out these hasty hints that gentlemen may improve them if they should be deemed of sufficient value to merit consideration. So far as the people, whom I have the honor to represent on this floor, are concerned in any proposition which may be made relative to a partition of the territories of the United States, on the waters of the Mississippi, I wish it to be distinctly understood, that I ask for them those rights and privileges only which belong to an independent commonwealth, with the boundaries which are prescribed by the articles of cession and agreement between the United States and Georgia. I seek not to dismember neighboring territory, to give an additional number of acres to that which I represent; we are already sufficiently voluminous in that particular. But if, from a full view of the subject, any change in the present limits should be thought conducive to general convenience, and compatible with sound policy, those which I have mentioned appear to me most likely to produce those desirable results. With these impressions, I feel it my duty to resist the amendment which has been proposed by the honorable gentleman from Tennessee.

Mr. MILLER's amendment was not agreed to.

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SATURDAY, January 5.

On motion of Mr. SEYBERT, a committee was appointed to provide for the safe-keeping of the books which belong to the Library of Congress. Mr. SEYBERT, Mr. QUINCY, and Mr. MACON, were appointed the committee.

Mr. QUINCY presented the memorial of sundry merchants and others of Boston, citizens of the United States, stating, that before they had been apprized of the revival of the non-intercourse as respects Great Britain, they had sent orders to England and Ireland for merchandise; that, before the news could reach England, their vessels

would have sailed; and praying that a further time might be allowed for them to reach this country, unaffected by that law.—Referred to the Committee on Foreign Relations.

Mr. SEYBERT presented a petition from sundry merchants, manufacturers, mechanics, traders, and other inhabitants of Philadelphia, praying the renewal of the charter of the Bank of the United States.—Ordered to lie on the table.

On the suggestion of Mr. MONTGOMERY, that he had some communications to make to the House, which in his opinion required secrecy, the doors were closed; and having remained so for some time, were opened; when the House adjourned.

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MONDAY, January 7.

Mr. JENNINGS presented a petition of the Legislative Council and House of Representatives of the Indiana Territory, praying for permission to locate a certain quantity of the public lands lying on the main fork of White river, to be established as the permanent seat of Government in said Territory; the Indian title to which lands has been extinguished by the Treaty of Fort Wayne.—Referred to the Committee on the Public Lands.

Mr. SEYBERT presented petitions of sundry merchants, manufacturers, mechanics, and traders, of the city of Philadelphia, praying the renewal of the United States' Bank charter.—Ordered to lie on the table.

Mr. VAN HORN presented a bill to incorporate the subscribers to the Farmers' Bank of Alexandria; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. MORROW, from the Committee on the Public Lands, made a report on the expediency of laying out and making the roads designated in, and providing for the disposal of the lands acquired by, the Treaty of Brownstown, in pursuance of a resolution of the seventeenth ultimo; which was read, and the resolution therein contained concurred in by the House, as follows:

*Resolved*, That provision ought to be made, by law, for laying out and making the roads designated by the Treaty of Brownstown, and that provision be made for the disposal of the public lands acquired by the said treaty.

*Ordered*, That a bill be brought in, pursuant to the said resolution; and that the Committee on the Public Lands do prepare and bring in the same.

Mr. MORROW, from the same committee, presented a bill for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting House, in the Mississippi Territory; which was read twice, and committed to a Committee of the Whole on Monday next.

An engrossed bill to alter the times for holding the district courts in the district of North Carolina was read the third time, and the farther consideration thereof postponed until Thursday next.

Mr. MILNOR, from the committee appointed, on the twenty-fourth ultimo, on the petition of

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Thomas Campbell, made a report; which was read, and referred to a Committee of the Whole on Thursday next.

The report is as follows:

That it appears to your committee, that Captain Campbell was a brave and meritorious officer; that he served faithfully during the whole of the Revolutionary war; that, in the course of that service, he was repeatedly and severely wounded; that those wounds have not only rendered him unable to gain a livelihood by manual labor, but have rendered his life a continued scene of suffering, and have subjected him to repeated and heavy expenses. The petitioner further states, that he has a wife and five children to provide for; and that, owing to his debility, and the heavy expenses to which he has been subjected in consequence of his wounds, he finds it difficult to provide a subsistence for them. Under these circumstances, the petitioner prays that the bounty and munificence of his country may be extended toward him, so as to render the decline of a life, which has been devoted to the service of his country, more comfortable than it will otherwise be.

Your committee conceive, that the heroes of the Revolution, who nobly stepped forward and expended their blood, and sacrificed their health, in defending their country's rights, have a strong claim upon the justice and liberality of the Government; and they believe few cases can arise exhibiting a stronger claim than that of the petitioner, when we consider the length and severity of his sufferings, and the heavy expenses to which they have subjected him. Under these impressions, the following resolution is submitted to the consideration of the House:

*Resolved*, That the sum of — dollars be granted to Captain Thomas Campbell, in consideration of the heavy expenses to which he has been subjected, in consequence of wounds received while in the service of his country in the Revolutionary war.

On motion of Mr. MONTGOMERY, the doors were then closed.

TUESDAY, January 8.

The House sat during the whole of this day with closed doors.

WEDNESDAY, January 9.

The SPEAKER laid before the House a report of the Secretary of the Treasury, prepared in obedience to a resolution of the seventeenth ultimo, respecting unlawful settlements on public lands; which was read, and referred to the Committee on the Public Lands.

A message from the Senate informed the House that the Senate have passed a resolution for the appointment of a joint committee to have the application of the money appropriated for the purchase of books for the Library of Congress; to which they desire the concurrence of this House.

Mr. Root from the Committee of Claims, presented a bill for the relief of Peter Audrain, accompanied with a report; which were read, and the bill was read the second time, and committed to a Committee of the Whole to-morrow.

Mr. MITCHILL presented a petition of the Pres-

ident and Directors of the Bank of New York, praying the renewal of the charter of the Bank of the United States; which was read, and referred to the Committee of the Whole on the bill for the renewal of the charter of the Bank of the United States.

A Message was received from the President of the United States, communicating a report of the Director of the Mint, of the operations of that establishment during the last year.

About two o'clock, Mr. BURWELL moved the order of the day, on the bill continuing in force the act incorporating the subscribers to the Bank of the United States; which was not agreed to—ayes 55, noes 60.

EDWARD C. BROWN.

Mr. Root made a report on the petition of Edward C. Brown, that, being barred by the statute of limitations, the committee recommend that the prayer of the petition be not granted.

A motion was made by Mr. GOLD, that it should be recommended to the Committee of Claims, with instructions to make a detailed report on the merits of the petition.

In the course of the discussion of this motion, the expediency of the act of limitation was fully debated, and also the question which has so frequently and diffusely been debated in the House, whether it was proper in any case whatever to make exceptions to the operation of the act of limitation. In this argument, the expediency of the indiscriminate operation of the limitation act was supported by Messrs. ROOT, SMILIE, and MACON, and the contrary opinion maintained by Messrs. PICKMAN, LEWIS, GOLD, WRIGHT, DESHA, GOLDSBOROUGH, and GHOLSON.

The question was decided in favor of a recommitment and of course incidentally against the operation of the statute to bar all claims—for recommitment 67, against it 49, as follows:

YEAS—Joseph Allen, Lemuel J. Alston, William Anderson, William T. Barry, Abijah Bigelow, James Breckenridge, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, Matthew Clay, William Crawford, John Davenport, jr., John Dawson, Joseph Desha, William Ely, James Emott, John W. Eppes, David S. Garland, Thomas Gholson, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, James Holland, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Richard M. Johnson, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, John Love, Vincent Matthews, Samuel McKee, William McKinley, Pleasant M. Miller, William Milnor, John Montgomery, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Samuel Ringgold, Daniel Sheffield, Dennis Smelt, George Smith, John Smith, Samuel Smith, Henry Southard, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, James Wilson, Robert Witherspoon, and Robert Wright.

NAYS—Willis Alston, jr., Ezekiel Bacon, David Bard, William W. Bibb, Adam Boyd, Robert Brown,

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William A. Burwell, William Butler, Joseph Calhoun, James Cochran, Richard Cutts, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Edwin Gray, William Helms, Jacob Hufty, William Kennedy, Aaron Lyle, Nathaniel Macon, Alexander McKim, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Thomas Newbold, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, Richard Stanford, John Stanley, Uri Tracy, Charles Turner, jun., Robert Weakley, Robert Whitehill, and Richard Winn.

*Ordered*, That Mr. CALHOUN be appointed of the Committee on Foreign Relations, in the place of Mr. TAYLOR, who has resigned his seat in this House.

#### MISSISSIPPI TERRITORY.

Mr. POINDEXTER from the committee to whom was referred a resolution of the House of Representatives to inquire into the expediency of admitting the Mississippi Territory into the Union, as a separate and independent State, made the following report:

That there has existed, within the Territory aforesaid, a temporary government similar to that prescribed by the ordinance for the Territory Northwest of the river Ohio, since the seventh day of April, one thousand seven hundred and ninety eight; and, although the wisdom of Congress has been displayed in various modifications of that ordinance, it has never ceased to contain principles incompatible with the rights of freemen. The Executive, who is frequently a total stranger to the local circumstances of the country, possesses an unlimited veto on all laws passed by the Representative branch of the Legislature. In addition to which, he is clothed with the odious authority to prorogue and dissolve the General Assembly, and thereby prostrate all power within the Territory to regulate its local and municipal concerns; these high prerogatives emanating from, and fit only to belong to kings and despots, may be exercised at the discretion of the Governor, who is not even required to assign a reason on which the act is founded. The only security, which the people over whom this form of government is established, have, against the frequent and wanton abuse of these powers, is to be found in the mild and conciliatory disposition uniformly manifested by the General Government toward its Territories; but experience has shown that officers, situated at a remote distance from the tribunal to which they are responsible, too frequently "feel power, and forget right," and, by eluding the vigilance of rigid investigation, are enabled to practice acts of oppression with impunity. Your committee forbear to enter into an examination of the various objections which might be urged against the present system of Territorial governments. It is sufficiently obvious, that, in many respects, they are hostile to the free Constitution which guarantees the liberties of every American citizen. Your committee, therefore, consider it an act, both of strict justice and sound policy, to emancipate every Territory of the United States from the trammels of that probationary vassalage, whenever the number of inhabitants within the boundaries of the Territory shall fairly entitle them to a Representative in the Congress of the United States. Your committee have used the best means in their power to ascertain the

number of souls within the Mississippi Territory. The official returns of the census have not yet been made to the Department of State, agreeably to the act of the last session, directing a census or enumeration of the inhabitants of the United States; consequently it became necessary and proper to seek, through other channels, the requisite information on that subject. It appears to your committee, from the best evidence which they have been enabled to collect, and on which they confidently rely, that there are in the southern and eastern counties of the Territory about the number of thirty-five thousand souls, and that the county of Madison, situated on the northern extremity of the Territory, near the great bend of the Tennessee river, contains a population of about ten thousand souls; it also appears to your committee that the emigration from the old States to this section of the Union, will, in a very short time, constitute the number of inhabitants required by the articles of cession and agreement between the United States and Georgia, to vest in them the unqualified right to become a member of the Union. Connected with these considerations, the length of time which it will necessarily require to form a constitution, and put the same in operation, affords a strong pledge that, anterior to the final admission of the aforesaid Territory into the Union, the number of its inhabitants will amount to at least sixty thousand.

Your committee are of opinion that, where no Constitutional difficulty occurs, the formation of new States on the southern extremity of the Union ought not to be delayed. It is a remarkable fact, in the annals of this country, that, on the river Mississippi, which is acknowledged by all to be of the first importance, both in reference to its commercial advantages, and the vast extent of fertile territory through which it flows, there does not exist a solitary State government. To unite every portion of the American family, by the indissoluble cord of affection, and to perpetuate the integrity of the Union, are objects paramount to all others which can be presented to the view of the National Legislature. These results cannot be secured but by an equal distribution of rights and privileges through every section of our extensive country. Let each enjoy civil, political, and religious liberty, subject to the control of independent local authorities, while the fostering hand of the Federal Government shall protect them in these enjoyments from domestic feuds and external violence. Your committee, with the foregoing impressions, do not hesitate to recommend the following resolution:

*Resolved*, That it is expedient to admit the Mississippi Territory into the Union, as a separate and independent State, on an equal footing with the original States; and that provision ought to be made, by law, to authorize the people of said Territory to elect a convention to form a constitution, to be submitted to Congress for their approbation.

Mr. POINDEXTER wished the report to be adopted, and again referred to a select committee, with instructions to report a bill.

On motion of Mr. PITKIN, the resolution was referred to a Committee of the Whole—yeas 64, nays 38.

#### TERRITORY OF ORLEANS.

On motion of Mr. MACON, the House again resolved itself into a Committee of the Whole on the bill for admitting the Territory of Orleans into the Union as a State.

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Mr. MILLER's proposed amendment was before the Committee the last time the subject was under consideration; and the question of course now recurred on the same motion.

Mr. BARRY and Mr. BACON opposed it.

The amendment was disagreed to by a large majority.

Mr. BARRY then proposed the following amendment to the bill:

*Provided, That the United States hereby reserve the power of altering the bounds of said Territory, so as not materially to diminish its extent, except so far as relates to that portion of it situated south of the 31st degree of north latitude, and east of a line drawn along the middle of the lakes Pontchartrain, Maurepas, and the river Iberville, to its junction with the Mississippi, power over which is hereby expressly reserved to the United States, to be disposed of in any manner that may be deemed proper.*

After some conversation, in which Mr. SHEFFEY declared his intention of moving the amendment which follows, and Mr. POINDEXTER expressed his approbation—

Mr. BARRY withdrew his amendment to make room for it.

Mr. SHEFFEY then moved to insert the following, in place of that part of the bill which prescribed the boundaries of the future State:

*"All that territory now contained within the limits of the Territory of Orleans, except that part lying east of the river Iberville and a line to be drawn along the middle of the lakes Maurepas and Pontchartrain to the ocean."*

Mr. BIBB stated, that if this amendment was adopted, as he hoped it would, he should call up a resolution which he had submitted a few days ago for appointing a committee to inquire whether the territory West of the Perdido should be added to the Mississippi Territory or assume the form of Territorial government. This would become an after question for the House to decide.

Mr. WRIGHT and Mr. RHEA opposed the amendment on the ground that the Treaty of 1803 with France guarantied to the undivided Territory of Orleans a right to become a State, &c., on the same conditions with other States.

Mr. BIBB and Mr. ELY supported the amendment on the ground of the expediency of leaving that part of their territory, the right to which the President had declared should be a subject of future negotiation, in such a state as would enable the United States to negotiate respecting it.

Mr. SHEFFEY's motion was agreed to, ayes 63.

Mr. MILLER moved an amendment to the bill going to restrict the right of suffrage to white males. He did it on the ground that the mixed population of Orleans was so numerous that they might elect a person of color to the National Legislature; with whom Mr. M. said he should feel no inclination to act.

Mr. POINDEXTER stated the fact of there being in Orleans many of the description of people called Creoles, who were very wealthy and respectable, &c.

Mr. MILLER's motion was negatived—ayes 17.

The period for the election of a convention 11th Con. 3d Sess.—17

was fixed at the third Monday in September next, and the time of its meeting on the 1st Monday in November.

The Committee rose and reported the bill as amended, which was ordered to be engrossed for a third reading to-morrow.

THURSDAY, January 10.

On motion of Mr. NEWTON,

*Resolved, That a Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what, alterations are necessary to be made in the act, entitled "An act to establish the compensations of the officers employed in the collection of the duties on imports and tonnage, and for other purposes," passed the second of March, and, also in the act, entitled "An act relative to the compensations of certain officers of the customs, and to provide for appointing a surveyor in the district therein mentioned," passed the twenty-seventh of March, and that they have leave to report by bill, or otherwise.*

Mr. JOHNSON presented a petition of Urbain Guillet, on behalf of himself and his associates, known by the name of "The Society of La Trappe," in the Illinois Territory, praying to be permitted to locate, on any vacant public lands adjoining their establishment, any military and donation rights which they may be able to procure from individuals.—Referred to the Committee on the Public Lands.

Mr. PITKIN presented a petition of the merchants of Hartford, in the State of Connecticut, to the same effect, with the petition from the merchants of Philadelphia, presented the 18th ultimo.—Referred to the Committee on Foreign Relations.

Mr. WRIGHT reported a bill for the protection and government of West Florida; which was twice read, and on motion of Mr. RHEA, recommended to the committee who reported it, on the ground of its containing provisions clashing with those yesterday agreed on by the House in relation to the Orleans Territory.

The House, on motion of Mr. BIBB, resumed the consideration of the resolution offered by him respecting erecting a separate territorial government in the Territory west of the Perdido, &c. On motion of Mr. BIBB, the same was committed to the committee to whom was recommended the bill this day reported by Mr. WRIGHT.

The resolution from the Senate for the appointment of a joint committee to have the application of the money appropriated to purchase books for the Library of Congress was twice read and concurred in by the House.

Mr. MUMFORD presented a petition of sundry inhabitants of the city of New York, praying the renewal of the charter of the Bank of the United States; which was read, and referred to the Committee of the Whole House on the bill for the renewal of the charter of said bank.

Mr. VAN HORN, from the Committee for the District of Columbia, presented a bill to amend the charter of the City of Washington; which

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was read twice, and committed to a Committee of the Whole on Monday next.

An engrossed bill to alter the times for holding the district courts of the district of North Carolina, was again read the third time, and recommended to the committee by whom it was reported.

### BANK OF THE UNITED STATES.

The SPEAKER laid before the House a report of the Secretary of the Treasury, in obedience to a resolution of the third instant, respecting the state and operations of the Bank of the United States; which was read, and referred to the Committee of the Whole on the bill for the renewal of the charter of the said bank.

The report is as follows:

TREASURY DEPARTMENT, *Jan. 9, 1811.*

SIR: I have the honor to transmit a report and sundry statements prepared in obedience to the resolution of the House of Representatives of the 3d instant.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN:

HON. SPEAKER, *House of Reps.*

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the third instant, respectfully reports—

That the annexed statements marked A, B, and C, contain all the information which the returns made to the Treasury afford on the subjects embraced by the resolutions aforesaid.

It appears by the statement A that the debts due from individuals and bodies corporate to the Bank of the United States, consisted at the respective dates of the several returns of the following items, viz:

Bills and notes discounted, and bonds due by individuals	\$15,126,187, 04
Balance due by other banks in account, after deducting the sums due by the Bank of the United States and its branches, to several other banks	1,318,024 29
Bank notes of other banks on hand	511,909 06
Treasury drafts not yet collected,	31,466 01
Overdrawn	32,579 07
Converted six per cent, stock	23,066 23
	<hr/>
	17,043,231 70
To which add the loan to the United States	2,750,000 00
	<hr/>
Makes for the aggregate of debts due to the bank	\$19,793,231 70

In a few instances which are noted in the statement A, the amount due on bonds, and also that of notes discounted, which have been put in suit, is distinctly stated in the returns made to the Treasury; but the aggregate alone is given in most of them, and they do not in any instance distinguish the amount "considered as standing accommodation to the customers of the bank and its branches." A recurrence to the 16th regulation of the 7th section of the act incorporating the bank will show that the only statements that can be required by the officer at the head of the Treasury, are those of the amount of the capital stock of the corporation, of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and that he has no right to ask for the account of any private individuals, or for any other

than the abovementioned general statements. Nor has the Secretary of the Treasury any knowledge whatever of the accounts and operations of the Bank, but what is derived from the official statements transmitted to him in conformity with the abovementioned provision in the charter.

The statement B shows the amount of notes of the said bank, and its branches, in circulation, at the date of the latest returns, to have been \$5,157,373 83.

The Treasurer's accounts annually laid before Congress show correctly the amount of public moneys deposited in the various banks on the last day of each quarter. But that amount is daily fluctuating, and cannot be stated with perfect precision except on the quarterly statements of those accounts. The Treasurer furnishes, however, the Secretary of the Treasury with a weekly estimate of the cash on hand, and where deposited, and taken from the latest received returns. A copy of that furnished on the 7th instant (marked C.) is herewith transmitted, together with remarks, showing what portions of the revenue are generally deposited in the Bank of the United States and its branches, and what portions are deposited in other banks.

It is probable that the amount of specie in the Treasury will, on the first day of March next, exceed \$2,500,000, and that the proportion deposited in the banks other than that of the United States and its branches, will not materially vary from what it is at present. But it is impracticable to form any correct estimate of the probable amount at that time in each place respectively, since that is always regulated by the want of funds in each place for the current service; according to which, the public moneys are daily transferred by drafts from place to place, as the occasion may require.

All which is respectfully submitted.

ALBERT GALLATIN.

### ORLEANS TERRITORY.

The bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; was read a third time.

Mr. PITKIN commenced a speech against the bill, chiefly objecting to the detail.

When he had been speaking about half an hour—

The SPEAKER observed that a message was in attendance from the Senate, of a confidential nature.

On motion of Mr. PITKIN, the bill was ordered to lie on the table, the doors were closed, and so remained till four o'clock, when the House adjourned. During the sitting with closed doors, a Message of a confidential nature was received from the President of the United States.

SATURDAY, January 12.

The House continued their sittings with closed doors from Thursday evening until this day, when they were opened about nine o'clock, P. M., and then the House adjourned until Monday morning.

MONDAY, January 14.

A message from the Senate informed the House that the Senate have passed three bills with the following titles:

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"An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company:

"An act for the relief of the heirs of the late Major General Anthony Wayne;" and

"An act authorizing a subscription, on the part of the United States, to the stock of the Ohio Canal Company;" to which bills they desire the concurrence of this House.

The SPEAKER laid before the House a report of the Secretary of State, in obedience to a resolution of the seventh ultimo, respecting patents; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a report of the Secretary of the Treasury, in obedience to a resolution of the twenty-first ultimo, respecting moneys paid to the Consuls for the relief of the destitute American seamen in foreign ports; which was read, and ordered to lie on the table.

On motion of Mr. SEYBERT, leave was given to withdraw the petition of sundry merchants of Philadelphia, presented the twenty-seventh of February last.

Mr. SAWYER, from the committee to whom was recommitteed the engrossed bill to alter the times for holding the district courts of the district of North Carolina, reported an amendatory bill; which was read twice, and committed to a Committee of the Whole to-morrow.

#### COMPLETING THE CAPITOL.

Mr. MACON submitted the following resolution:

*Resolved*, That the President of the United States be requested to cause to be laid before this House an estimate of the sum necessary to finish the Capitol, designating what may be necessary to finish each wing, and the main building, and what time may be required to finish the whole building.

Mr. RHEA moved to strike out so much of the resolution as would confine it to an inquiry into the necessary repairs of the north and south wings, and the expenses of them.

Mr. LEWIS expressed his surprise that any objection should be made to receiving information, whatever disposition there might be to act on it. The resolution went to an object which, in the opinion of Mr. L., ought, long ago, to have attracted the attention of Congress, and he was happy to see it now taken up.

Mr. MACON said, he wished to have a whole view of the subject, and not to go on for ever by little and little to vote a great amount of money without having any estimate. He said they had better look at the subject altogether. He had no idea, however, that Congress would now appropriate a large sum of money to this object; every body knew the Treasury was not in a situation to afford it; but he was opposed to the motion of Mr. RHEA, because he wished to have a view of the whole subject.

Mr. STANFORD said he had no objection to calling for further estimates; but the House had already had several estimates of the expense of finishing each of the wings, which were among the printed documents of the House.

Mr. PICKMAN hoped the amendment would not prevail, although he might feel as little interest in the subject as any one, because he did not expect, after the end of the present session, ever to see Washington again; but it would be a great gratification to him to know that this building was finished, and that it should not stand as a monument of extravagance—of extravagance produced by the mode in which money had been appropriated and expended for it. If the Government should go on, as it had done for eight or ten years, making alterations or repairs, the buildings would be in no better state than they are now, although they would have cost a great deal more money than if an appropriation were at once made to finish the whole. He therefore hoped the resolution would pass without amendment.

Mr. RHEA said, if he believed the gentleman from North Carolina was seriously disposed to do that which his motion proposed to inquire into, he might agree to it. If the buildings were finished, repairs would always be necessary, until materials should be discovered, as durable in their nature as time itself. The idea that the making a large appropriation at once would preclude the necessity of other appropriations was as reasonable as that, because a man made a hearty dinner one day, he should eat none for a week afterwards.

Mr. RHEA's motion for amendment was negatived.

On the suggestion of Mr. TALLMADGE, the resolution was so amended, with the consent of Mr. MACON, as to call for an account of the debts due to individuals at this time for work done on the Capitol; and also for an account of the whole moneys expended on the public buildings.

As amended, the resolution was agreed to, and a committee appointed to present it to the President of the United States.

#### ORLEANS TERRITORY.

The House resumed the consideration of the engrossed bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes.

The bill being on its final passage—

Mr. PITKIN said he had heretofore stated that he had some objections to the bill, which he had intended to have stated to the House when the bill was capable of amendment, but that he had not an opportunity so to do. I have stated, said Mr. P., that it was probable there would be some difficulty between Orleans, when it becomes a State, and the United States, respecting the extent of the State westward. I stated that the United States, in consequence of the purchase of Louisiana with the same extent that it had when Spain and France possessed it, had claimed the territory as far as the river called Rio Bravo; that the negotiations on this subject between the Governments of the United States and Spain were probably unknown to many members of

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the House, and that it required a pretty accurate knowledge of them, of the extent of the claim, and of the geography of the country, to understand precisely what I meant. I stated that there was an extent of country between a meridional line passing through Nacogdoches and Rio Bravo, of four or five hundred miles in width, which the United States had claimed as being their property. In the negotiations between the two countries, the United States offered to cede all the country between the Rio Bravo and the Colorado running east of it to Spain, on the condition that Spain would cede to the United States all the territory west of the Perdido. This proposition was rejected. Our Commissioners were instructed to assert our title as far as the Rio Bravo, or at least to the Bay of St. Bernard. It is so stated by the President of the United States in the introduction to the compilation of the land laws, in which he states that we unquestionably have a right to the country as far west as the sources of the rivers which fall into the Mississippi, to the sources of the Red river, Arkansas, and Missouri; that with respect to the territory immediately bounding on the Gulf of Mexico, we have claims to the "province of Texas," which it is well known is a very large province. By the bill before us, according to this construction, jurisdiction is extended over this very province; and it may be, and in fact will be, in the power of the State of Orleans to say that our limits extend so far, and therefore to extend their jurisdiction in like manner. In my apprehension, therefore, it is important, while we are making this Territory a State, where the boundaries are disputed, to retain in our own hands the power of settling them. It is known that, by the law which passed providing for the government of the Territory of Orleans, we had liberty to alter the boundary before we made them a State, but not after. Will it not be in the power of the new State to insist on their right to jurisdiction over the territory, at least as far west as the Colorado, and to prevent the United States from ceding any part of it? For instance, sir, the United States may wish, as we have taken Florida as far as the Perdido, subject to future negotiation, to make this arrangement: to cede to Spain a certain proportion west for East Florida. Now, sir, I ask when we have made this country a State if we can do this? I believe it will be said by every person that we cannot, after she becomes a State, alter the boundaries without her consent. I do apprehend, therefore, there will be difficulties on the subject hereafter, if the United States should attempt to settle the boundary in a manner disagreeable to the State; because, if they cannot extend their jurisdiction west of a meridional line passing through Nacogdoches, the territory will be in extent east and west but about one hundred miles, and north and south about one hundred and twenty, and this will make them comparatively a small State.

As the United States have settled a provisional line, to wit: a meridional line through Nacogdoches, it should not be in the power of the new

State to extend its jurisdiction beyond that line. Provision might be made in this way. The western boundary might be made to conform to the provisional line; and a provision might then be made that there should be reserved to the United States the privilege of adding to it whatever land it should acquire westwardly. Such a provision would leave us at liberty to settle the limits without the interference of that State, and without, I apprehend, much difficulty. This was done in relation to the State of Ohio. Unless the right had been reserved, the consent of the State would have been necessary to a cession, or other alteration of its boundary. Such a course in this case will be perfectly safe for the United States, as well as for the new State. I wish we may so regulate the Territory as there may not in future be any collision between the State and the United States. The province of Texas is in the viceroyalty of New Spain. We know that the Viceroy sent his troops to oppose the passage of our troops, and a provisional line was established. New Spain is very powerful, and I should be very sorry that the new State should have power to embroil the United States with it. I would ask the chairman of the committee who reported this bill, what were his views respecting the western boundary, and how far it was his idea that the new State should extend, and whether it would not comport with his ideas that the change which I have suggested should be made? I could have wished that the bill was in such a state of its progress that I could have moved an amendment; but, as it is, unless I am satisfied that we shall not be involved in difficulty by the consequences I have stated, I shall be unwilling to pass the bill, and must vote against it.

Mr. JOHNSON said he had listened to the objections against extending the right of self-government to the Territory of Orleans with great anxiety. So long as the measure was subject to modification and amendment, said he, I felt disposed to remain silent. But the question now presented is, shall the bill pass by which the Territory will be authorized to form a State government upon certain conditions. The conduct of the United States towards this Territory has been magnanimous, liberal, generous. The conduct of the people deserved it. This disposition on the part of the United States has created in that people a love of independence, and a confidence that every reasonable request would be complied with. These people ask a favor; what is it? The power to erect themselves into an independent State. Is this unreasonable? Is it unnatural that freemen should seek the right of political self-government at their expense and not ours? Do they present a paper in one hand, and a threat in the other? No, sir, they approach you as respectful memorialists asking a favor and not even demanding a right. What reasons of State, then, have we to disappoint the just expectations of this important Territory? The principles of every State constitution in the Union, the political creed so often professed on this floor, the sentiments of freedom as often expressed,



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and the articles of the Federal Constitution which circumscribe our powers, all unite to enforce the claims of this Territory to State sovereignty. I cannot, I will not therefore withhold my sanction from the wishes of these people. By a change of conduct on my part, I will not be instrumental in changing to enmity the deep-rooted attachment of these people to this country, and our republican institutions. The 30th day of April, 1803, the United States acquired the Territory of Louisiana, the Orleans being a part, by a convention entered into with France at Paris, which convention was ratified by the President of the United States and the Senate, and the Congress made provision for the purchase money. The people of the Orleans Territory have been incorporated into the Union by purchase and adoption, and are entitled to all the rights of American citizens. The third article of said treaty specifies—"That the inhabitants of Louisiana, (the ceded territory,) shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." We are thus solemnly bound by compact to admit this Territory into the Union as a State, as soon as possible, consistent with the Constitution of the United States. What principle of the Constitution will be violated by their admission into the Union as a State? In fact, we are bound by the principles of the Constitution; we are bound to the people of the United States; we are bound by conscience, and we are bound by a still more sacred tie to Him who gave us independence to extend the blessings of liberty to these people whenever it is practicable. But the undefined limits of this Territory have furnished ground for serious objection. The western and southern boundary remain subjects of dispute between the United States and Spain, and it is apprehended that it will produce a collision with a foreign Power to erect this Territory into a State. The ingenuity of the gentleman from Connecticut has discovered this difficulty, but his information has furnished an answer. The present state of things will prove the reverse of this position. Why has not the Territorial government produced this collision with a foreign Power? The Territorial administration has extended as far to the west and south as will be given to the State Government; the State sovereignty, as to the extent of country, will be given in the very same words in which the Territorial sovereignty has been exercised without war with a foreign Power. Sir, the danger is ideal, and the imagination should not be employed to embarrass with groundless fears upon a subject of so much magnitude. But I will prove the objection groundless: whether a Territorial or a State government, the dispute as to boundary, if it does exist, is a national dispute to be settled by negotiation. In the year 1782, the United States and Great Britain entered into a provisional treaty. In the first article, Great Britain

acknowledges, for the first time, the sovereignty and independence of the United States; and in the second article, the boundary is fixed between the British provinces and the United States. In the year 1783, Great Britain and the United States entered into the Treaty of Peace which ended the war of the Revolution, and in the second article, the boundary lines between the United States and the British provinces are inserted in conformity to the provisional article upon that subject in 1782.

In the second article it is stated that the eastern boundary between the United States and the British provinces should be formed by a line drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source, and thence to the highlands which divide the waters of the St. Lawrence and the Atlantic. Subsequent to the date of the Treaty of Peace, doubts arose as to the source and run of the St. Croix, as intended by the treaty. Two waters were known by the same name, which is not unfrequent, and, as was to be expected, Great Britain contended for the river which would give them the most territory, as did the United States for that water bearing the name of St. Croix that would extend the limits of the United States. This dispute arose from these facts, and remained unsettled until the year 1794, when Jay's Treaty was entered into, and by mutual agreement commissioners were appointed to receive testimony and finally settle upon the true boundary between the two nations, which was done without producing war, or without the State bordering on the river St. Croix objecting to such a proceeding.

I have an example still more in point, and which must be known to this House, and with the power of Spain, the very nation who disputes the boundary of the Orleans Territory to the west and south. I mean the unsettled and undefined limits of Georgia to the south and west, bordering on the Spanish provinces of East and West Florida, and which was a subject of dispute between Spain and the United States, until the Treaty of 1795 with that Power; the second article of which treaty defines the boundary between the State of Georgia and the Spanish provinces of East and West Florida; and by the third article, Commissioners were appointed to run the line and fix the boundary. Until this Treaty with Spain, of 1795, it is well known that Spain had possession of Natchez and several other places in the territory of the United States, and the Spanish troops and Governor were accordingly removed. This, I presume, should satisfy us upon this head. Every treaty in your statute books proves the practice of nations in settling controversy. These several treaties to which I have adverted have embraced a vast variety of subjects of dispute. The subject of contraband goods, the definition of a blockaded port, the duties upon merchandise and tonnage, are disputes of the commercial kind, which nations settle by negotiation and war, and in character there is no difference in commercial and in territorial dis-

putes. Sometimes a dispute may embrace a few acres of soil unimportant in any point of view, and less important than many commercial rights; at other times a territorial dispute may arise to importance as embracing a most valuable tract of country. In which cases sometimes the dispute may differ as to its intrinsic importance, but not in its character; and this nation will not so far consult the will of any other, as to keep in political chains any portion of our citizens. This dispute may exist until the present generation shall be grey with age.

But the people ask us for the right of self-government, and we grant it upon conditions which make it a great favor to us that the Orleans Territory will become a State upon those conditions. The acceptance of these people on these conditions is the highest evidence of their worth and merit. In twelve months these people, amounting to sixty thousand souls, could demand of you as a right what is asked of you as a favor. The first condition prescribed is, that the public lands belonging to the United States shall ever remain exempt from taxation. This would have been a source of great revenue to this people, and which could not have been considered unreasonable if taxed, as the lands belonging to individuals. The second condition is, that all the legislative, judicial, and executive proceedings, shall be carried on in the English language. The acceptance of this condition proves their love for liberty, their willingness to sacrifice prejudices at the shrine of independence. They are willing to destroy the only remaining vestige of French nationality, the French language, that we may not only be one in sentiment, one great family in principles, but in language, habit, and external appearance. It is a great sacrifice; one which they ought to make, and one worthy alone of freemen. For the great purposes of liberty they are not only willing to lose as soon as possible the language of France, but recollect it is the language of their fathers and mothers. It is the language of their native country. What becomes of the denunciations which we have heard against these people, and the charge of disaffection? The charge is groundless; the imputation is without foundation. It has been contended on this floor, that the people of this Territory can never be admitted into the Union as an independent State, and that they must remain in a state of political vassalage. In article the fourth, section the third, of the Federal Constitution, it is stated, that new States may be admitted by the Congress of the United States into this Union. Here the absolute power of admitting States into the Union is given to the Congress. If this power is given to the people of the United States in Congress assembled, by what fiat are the people of the vast purchase of Louisiana to be deprived of their freedom? By what law of nature are they to be held in political bondage; and by what article in the Constitution are these people disfranchised? I envy not the spirit which dictated this sentiment of galling chains. It was dictated by a spirit of hatred to France and Frenchmen, and not by

that spirit of independence which should be cherished by us all. But they are Frenchmen; that is their crime. They are American citizens, and they deserve the name. I will venture to say that there are as many lovers of England and English monarchy as there are lovers of France and French despotism in the United States, and as many lovers of England in as many square miles in the United States as lovers of France in this Territory.

Sir, attend to the happy effects of this measure as it respects the United States; we get rid of the trouble and expense of the territorial government; we shall no longer be embarrassed with territorial petitions and regulations. We shall no longer hear of remonstrances against territorial governors and officers; neither the cries of the injured nor the clamors of envy will assail us; these things will be managed by the State government. The effect of this measure upon the people of the Territory will be still more beneficial and salutary at a crisis so interesting to the American people. Every man has a desire for freedom. By dint of experience man will become enlightened. By the light of his own errors he will become wise and good. The people of this Territory have not only a relish for independence, but they have the capacity of enjoying it. They have not only heard the sound, but they have in part enjoyed the substance. They have been some time a legislative people. Their emancipation from a Territorial government will have a most happy influence upon the morals, the character, and the intelligence of the people. Merit will soon be the test of promotion, and a noble emulation will check an inordinate passion for gain. The spirit of liberty will soon animate every bosom; and the mind will see its own enlargement. It will increase the physical force of the nation, and it will arm the people with additional weapons of self-preservation.

Thus, sir, I have endeavored to prove that no serious objection can be urged to the passage of this bill, and that, by its passage, you extend the blessings of independence to a large and respectable Territory, without abridging the right of others.

MR. QUINCY.—Mr. Speaker, I address you, sir, with an anxiety and distress of mind, with me wholly unprecedented. The friends of this bill seem to consider it as the exercise of a common power; as an ordinary affair; a mere municipal regulation which they expect to see pass without other questions than those concerning details. But, sir, the principle of this bill materially affects the liberties and rights of the whole people of the United States. To me, it appears that it would justify a revolution in this country; and that, in no great length of time, may produce it. When I see the zeal and perseverance with which this bill has been urged along its Parliamentary path, when I know the local interests and associated projects, which combine to promote its success, all opposition to it seems manifestly unavailing. I am almost tempted to leave, without a struggle, my country to its fate. But,

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sir, while there is life, there is hope. So long as the fatal shaft has not yet sped, if Heaven so will it, the bow may be broken, and the vigor of the mischief-meditating arm withered. If there be a man in this House, or nation, who cherishes the Constitution under which we are assembled, as the chief stay of his hope, as the light which is destined to gladden his own day, and to soften even the gloom of the grave, by the prospect it sheds over his children, I fall not behind him in such sentiments. I will yield to no man in attachment to this Constitution, in veneration for the sages who laid its foundations, in devotion to those principles which form its cement and constitute its proportions. What, then, must be my feelings; what ought to be the feelings of a man cherishing such sentiments, when he sees an act contemplated which lays ruin at the root of all these hopes? When he sees a principle of action about to be usurped, before the operation of which the bands of this Constitution are no more than flax before the fire, or stubble before the whirlwind? When this bill passes, such an act is done, and such a principle usurped.

Mr. Speaker, there is a great rule of human conduct, which he who honestly observes cannot err widely from the path of his sought duty. It is, to be very scrupulous concerning the principles you select as the test of your rights and obligations; to be very faithful in noticing the result of their application; and to be very fearless in tracing and exposing their immediate effects and distant consequences. Under the sanction of this rule of conduct, I am compelled to declare it as my deliberate opinion, that, if this bill passes, the bonds of this Union are virtually dissolved; that the States which compose it are free from their moral obligations, and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation—amicably if they can, violently if they must.

Mr. QUINCY was here called to order by Mr. POINDEXTER.

Mr. QUINCY repeated, and justified the remark he had made, which, to save all misapprehension, he committed to writing, in the following words: "If this bill passes, it is my deliberate opinion that it is virtually a dissolution of this Union; that it will free the States from their moral obligation, and, as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation, amicably if they can, violently if they must."

After some little confusion,

Mr. POINDEXTER required the decision of the Speaker whether it was consistent with the propriety of debate, to use such an expression. He said it was radically wrong for any member to use arguments going to dissolve the Government, and tumble this body itself to dust and ashes. It would be found, from the gentleman's statement of his language, that he had declared the right of any portion of the people to separate—

Mr. QUINCY wished the Speaker to decide, for if the gentleman was permitted to debate the question, he should lose one-half of his speech.

Mr. POINDEXTER said that, by the interruption given him, he perceived the galled jade winced. The question he wished to propound to the Chair was this: Whether it be competent in any member of this House to invite any portion of the people to insurrection, and, of course, to a dissolution of the Union?

Mr. QUINCY. And I, sir, will make this question: Is it not the duty of a member to state the consequences of a measure which appears injurious to him? And the more pregnant the measure is with evil, is not the duty of stating it the more imperious? Such, I say, will be the consequences, and such I mean to prove—

Mr. POINDEXTER wished to know if the gentleman had any more right to debate the question than he had.

Mr. QUINCY resumed his seat; and

The SPEAKER decided that great latitude in debate was generally allowed; and that, by way of argument against a bill, the first part of the gentleman's observations was admissible; but the latter member of the sentence, viz: "That it would be the duty of some States to prepare for a separation, amicably if they can, violently if they must," was contrary to the order of debate.

Mr. LEWIS called for the decision of another question of order, viz: Whether a Delegate, holding a seat in this House by courtesy alone, without a right to vote, has a right to call any member of the House to order?

Mr. NEWTON asked, for what a Delegate was sent here, but to take care of the political rights of the Territory he represented? And where he conceived them to be affected, as in this case, he had certainly the same rights as any other member.

The SPEAKER decided against Mr. LEWIS's appeal to order.

Mr. MACON expressed his wish that the gentleman had not been interrupted in his speech, although no one was more averse to hearing anything said about the dissolution of the Union than he was.

Mr. WRIGHT wished that the gentleman should now be permitted to pursue his speech.

The SPEAKER, however, having decided Mr. QUINCY's observations to be out of order—

Mr. QUINCY appealed from his decision, and required the yeas and nays on the appeal.

Mr. BURWELL said, that the members of the House were responsible, not to the House, but to the people, for the arguments they used in debate; that the rules of the House only applied to the order and facility of public business, and not to the sentiments expressed in debate. Mr. B. said he was far from implying an approbation of the gentleman's sentiments; but he thought they were a matter altogether between himself and his constituents.

Mr. GOLD quoted Jefferson's Manual, to show that whatever was said in debate of a disorderly nature should not be noticed until the person using such words had gone through with his remarks.

Messrs. PITKIN, SHEFFEY, RHEA, and several others, rose to speak; but the SPEAKER read the rule which precludes debate on an appeal from the Speaker's decision.

The question was stated thus: "Is the decision of the SPEAKER correct?" And decided as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Adam Boyd, Robert Brown Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, William Findley, Barzilai Gannett, Gideon Gardner, James Holland, Jacob Hufty, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, John Nicholson, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Thompson, Charles Turner, jr., Robert Weasley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright—53.

NAYS—Joseph Allen, Ezekiel Bacon, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, William A. Burwell, William Butler, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, junior, James Emott, Jonathan Fisk, Meshack Franklin, David S. Garland, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Samuel McKee, William Milnor, Samuel L. Mitchell, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, jun., Elisha R. Potter, Lemuel Sawyer, Adam Seybert, Daniel Sheffey, Samuel Smith, Richard Stanford, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Uri Tracy, George M. Troup, Nicholas Van Dyke, Killian K. Van Rensselaer, and Laban Wheaton—56.

So the decision of the Speaker was reversed; Mr. QUINCY's observations were declared to be in order; and he proceeded.

I rejoice, Mr. Speaker, at the result of this appeal. Not from any personal consideration, but from the respect paid to the essential rights of the people, in one of their Representatives. When I spoke of a separation of the States, as resulting from the violation of the Constitution, contemplated in this bill, I spoke of it as of a necessity, deeply to be deprecated; but as resulting from causes so certain and obvious, as to be absolutely inevitable when the effect of the principle is practically experienced. It is to preserve, to guard the Constitution of my country, that I denounce this attempt. I would rouse the attention of gentlemen from the apathy, with which they seem beset. These observations are not made in a corner; there is no low intrigue; no secret machinations. I am on the people's own ground—to them I appeal, concerning their own rights, their

own liberties, their own intent in adopting this Constitution. The voice I have uttered, at which gentlemen startle with such agitation, is no unfriendly voice. I intended it as a voice of warning. By this people, and by the event, if this bill passes, I am willing to be judged, whether it be not a voice of wisdom.

The bill, which is now proposed to be passed, has this assumed principle for its basis—that the three branches of this National Government, without recurrence to conventions of the people, in the States, or to the Legislatures of the States, are authorized to admit new partners to a share of the political power, in countries out of the original limits of the United States. Now, this assumed principle I maintain to be altogether without any sanction in the Constitution. I declare it to be a manifest and atrocious usurpation of power; of a nature, dissolving, according to undeniable principles of moral law, the obligations of our national compact; and leading to all the awful consequences which flow from such a state of things.

Concerning this assumed principle, which is the basis of this bill, this is the general position on which I rest my argument—that if the authority, now proposed to be exercised, be delegated to the three branches of the Government, by virtue of the Constitution, it results either from its general nature, or from its particular provisions. I shall consider distinctly both these sources, in relation to this pretended power.

Touching the general nature of the instrument called the Constitution of the United States, there is no obscurity—it has no fabled descent, like the palladium of ancient Troy, from the heavens. Its origin is not confused by the mists of time, or hidden by the darkness of past, unexplored ages; it is the fabric of our day. Some now living, had a share in its construction—all of us stood by, and saw the rising of the edifice. There can be no doubt about its nature. It is a political compact. By whom? And about what? The preamble to the instrument will answer these questions:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution, for the United States of America."

It is, "we, the people of the United States, for ourselves and our posterity," not for the people of Louisiana; nor for the people of New Orleans, or of Canada. None of these enter into the scope of the instrument; it embraces only "the United States of America." Who those are, it may seem strange, in this place, to inquire. But truly, sir, our imaginations have, of late, been so accustomed to wander after new settlements to the very end of the earth, that it will not be time ill-spent to inquire what this phrase means, and what it includes. These are not terms adopted at hazard; they have reference to a state of things existing anterior to the Constitution. When the people of the present United States began to contemplate

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a severance from their parent State, it was a long time before they fixed definitely the name by which they would be designated. In 1774, they called themselves "the Colonies and Provinces of North America." In 1775, "the Representatives of the United Colonies of North America." In the Declaration of Independence, "the Representatives of the United States of America." And finally, in the Articles of Confederation, the style of the confederacy is declared to be "the United States of America." It was with reference to the old articles of confederation, and to preserve the identity and established individuality of their character, that the preamble to this Constitution, not content, simply, with declaring that it is "we the people of the United States," who enter into this compact, adds that it is for "the United States of America." Concerning the territory contemplated by the people of the United States, in these general terms, there can be no dispute; it is settled by the treaty of peace, and included within the Atlantic ocean, and St. Croix, the lakes, and more precisely, so far as relates to the frontier, having relation to the present argument, within "a line to be drawn through the middle of the river Mississippi, until it intersect the northernmost part of the thirty-first degree of north latitude to the river Apalachicola, thence along the middle of this river to its junction with the Flint river, thence straight to the head of the St. Mary's river, and thence down the St. Mary's to the Atlantic ocean."

I have been thus particular to draw the minds of gentlemen, distinctly, to the meaning of the terms used in the preamble; to the extent which "the United States" then included; and to the fact that neither New Orleans nor Louisiana were within the comprehension of the terms of this instrument. It is sufficient for the present branch of my argument to say, that there is nothing in the general nature of this compact from which the power contemplated to be exercised in this bill results. On the contrary, as the introduction of a new associate in political power implies, necessarily, a new division of power, and consequent diminution of the relative proportion of the former proprietors of it; there can, certainly, be nothing more obvious, than that from the general nature of the instrument no power can result to diminish and give away to strangers any proportion of the rights of the original partners. If such a power exist, it must be found, then, in the particular provisions in the Constitution. The question now arising is, in which of these provisions is given the power to admit new States, to be created in territories, beyond the limits of the old United States. If it exist anywhere, it is either in the third section of the fourth article of the Constitution, or in the treaty-making power. If it result from neither of these, it is not pretended to be found anywhere else.

That part of the third section of the fourth article, on which the advocates of this bill rely, is the following: "New States may be admitted, by the Congress, into this Union; but no new States shall be formed or erected within the jurisdic-

tion of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress." —I know, Mr. Speaker, that the first clause of this paragraph has been read, with all the superciliousness of a grammarian's triumph. "New States may be admitted, by the Congress, into this Union." Accompanied with this most consequential inquiry: "Is not this a new State to be admitted? And is not here an express authority?" I have no doubt this is a full and satisfactory argument to every one, who is content with the mere colors and superficies of things. And if we were now at the bar of some stall-fed justice, the inquiry would insure victory to the maker of it, to the manifest delight of the constables and suitors of his court. But, sir, we are now before the tribunal of the whole American people; reasoning concerning their liberties, their rights, their Constitution. These are not to be made the victims of the inevitable obscurity of general terms; nor the sport of verbal criticism. The question is concerning the intent of the American people, the proprietors of the old United States, when they agreed to this article. Dictionaries and spelling books are, here, of no authority. Neither Johnson nor Walker, nor Webster nor Dilworth, has any voice in this matter. Sir, the question concerns the proportion of power, reserved by this Constitution, to every State in the Union. Have the three branches of this Government a right, at will, to weaken and outweigh the influence, respectively secured to each State, in this compact, by introducing, at pleasure, new partners, situate beyond the old limits of the United States? The question has not relation merely to New Orleans. The great objection is to the principle of the bill. If this bill be admitted, the whole space of Louisiana, greater, it is said, than the entire extent of the old United States, will be a mighty theatre, in which this Government assumes the right of exercising this unparalleled power. And it will be; there is no concealment, it is intended to be, exercised. Nor will it stop, until the very name and nature of the old partners be overwhelmed by new comers into the Confederacy. Sir, the question goes to the very root of the power and influence of the present members of this Union. The real intent of this article is, therefore, an inquiry of most serious import; and is to be settled only by a recurrence to the known history and known relations of this people and their Constitution. These, I maintain, support this position: that the terms "new States," in this article, do intend new political sovereignties, to be formed within the original limits of the United States; and do not intend new political sovereignties with territorial annexations, to be erected, without the original limits of the United States. I undertake to support both branches of this position to the satisfaction of the people of these United States. As to any expectation of conviction on this floor, I know the nature of the ground; and how hopeless any arguments are, which thwart a concerted course of measures.

I recur, in the first place, to the evidence of history. This furnishes the following leading fact: that before, and at the time of the adoption of this Constitution, the creation of new political sovereignties within the limits of the old United States was contemplated. Among the records of the old Congress will be found a resolution, passed as long ago as the 10th day of October, 1780, contemplating the cession of unappropriated lands to the United States, accompanied by a provision that, "they shall be disposed of for the common benefit of the United States, and be settled and formed into distinct Republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States." Afterward, on the 7th of July, 1786, the subject of "laying out and forming into States" the country lying northwest of the river Ohio, came under the consideration of the same body; and another resolution was passed recommending to the Legislature of Virginia to revise their act of cession, so as to permit a more eligible division of that portion of territory derived from her; "which States," it proceeds to declare, "shall hereafter become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the original States, in conformity with the resolution of Congress of the 10th of October, 1780." All the Territories, to which these resolutions had reference, were undeniably within the ancient limits of the United States.

Here, then, is a leading fact, that the article in the Constitution had a condition of things, notorious at the time when it was adopted, upon which it was to act, and to meet the exigency resulting from which, such an article was requisite. That is to say; new States, within the limits of the United States, were contemplated at the time when the foundations of the Constitution were laid. But we have another authority upon this point, which is, in truth, a contemporaneous exposition of this article of the Constitution. I allude to the resolution, passed on the 3d of July, 1788, in the words following:

"Whereas application has been lately made to Congress by the Legislature of Virginia, and the district of Kentucky, for the admission of the said district into the Federal Union, as a separate member thereof, on the terms contained in the acts of the said Legislature, and in the resolutions of the said district, relative to the premises. And whereas Congress, having fully considered the subject, did, on the third day of June last, resolve that it is expedient that the said district be erected into a sovereign and independent State and a separate member of the Federal Union; and appointed a committee to report and act accordingly, which committee, on the second instant, was discharged, it appearing that nine States had adopted the Constitution of the United States, lately submitted to conventions of the people. And whereas a new Confederacy is formed among the ratifying States, and there is reason to believe that the State of Virginia, including the said district, did, on the 25th of June last, become a member of the said Confederacy: And where-

as an act of Congress, in the present state of the government of the country, severing a part of the said State from the other parts thereof, and admitting into the Confederacy, formed by the articles of Confederation and perpetual union, as an independent member thereof, may be attended with many inconveniences, while it can have no effect to make the said district a separate member of the Federal Union, formed by the adoption of the said Constitution, and therefore it must be manifestly improper for Congress assembled, under the articles of Confederation, to adopt any other measures relative to the premises than those which express their sense, that the said district ought to be an independent member of the Union, as soon as circumstances shall permit proper measures to be adopted for that purpose,

"Resolved, That a copy of the proceedings of Congress, relative to the independency of the district of Kentucky, be transmitted to the Legislature of Virginia, and also to Samuel McDowell, Esq., late President of the said Convention; and that the said Legislature, and the inhabitants of the said district aforesaid, be informed that, as the Constitution of the United States is now ratified, Congress think it undesirable to adopt any further measures, for admitting the district of Kentucky into the Federal Union, as an independent member thereof, under the articles of Confederation and perpetual union; but that Congress, thinking it expedient that the said district be made a separate State and member of the Union, as soon after proceedings shall commence under the said Constitution as circumstances shall permit, recommend it to the said Legislature, and to the inhabitants of the said district, so to alter their acts, and resolutions, relative to the premises, as to render them conformable to the provisions made in the said Constitution, to the end that no impediment may be in the way of the speedy accomplishment of this important business."

In this resolution of the old Congress, it is expressly declared, that the Constitution of the United States having been adopted by nine States, an act of the old Congress could have no effect to make Kentucky a separate member of the Union, and that, although they thought it expedient that it should so be admitted, yet that this could only be done under the provisions made in the new constitution. It is impossible to have a more direct contemporaneous evidence that the case contemplated in this article was that of the Territories within the limits of the United States; yet the gentleman from North Carolina, (Mr. Macon,) for whose integrity and independence I have very great respect, told us the other day, that "if this article had not territories without the limits of the old United States to act upon, it would be wholly without meaning. Because the ordinance of the old Congress had secured the right to the States within the old United States, and a provision for that object, in the new constitution, was wholly unnecessary." Now, I will appeal to the gentleman's own candor, if the very reverse of the conclusion he draws is not the true one, after he has considered the following fact: That, by this ordinance of the old Congress, it was declared, that the boundaries of the contemplated States, and the terms of their admission, should be, in certain particulars, specified in the ordinance, subject to the con-

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trol of Congress. Now, as by the new constitution the old Congress was about to be annihilated, it was absolutely necessary for the very fulfilment of this ordinance, that the new constitution should have this power for the admission of new States within the ancient limits, so that the ordinance of the old Congress, far from showing the inutility of such a provision for the Territories within the ancient limits, expressly proves the reverse, and is an evidence of its necessity to effect the object of the ordinance itself.

I think there can be no more satisfactory evidence adduced or required of the first part of the position, that the terms "new States" did intend new political sovereignties within the limits of the old United States. For it is here shown, that the creation of such States, within the territorial limits fixed by the treaty of 1783, had been contemplated; that the old Congress itself expressly asserts that the new Constitution gave the power for that object; that the nature of the old ordinance required such a power, for the purpose of carrying its provisions into effect, and that it has been, from the time of the adoption of the Federal Constitution, unto this hour, applied exclusively to the admission of States, within the limits of the old United States, and was never attempted to be extended to any other object.

Now, having shown a purpose, at the time of the adoption of the Constitution of the United States, sufficient to occupy the whole scope of the terms of the article, ought not the evidence be very strong to satisfy the mind, that the terms really intended something else, besides this obvious purpose; that it may be fairly extended to the entire circle of the globe, wherever title can be obtained by purchase, or conquest, and the new partners in the political power may be admitted at the mere discretion of this Legislature, any where that it wills. A principle thus monstrous is asserted in this bill.

But I think it may be made satisfactorily to appear not only that the terms "new States" in this article did mean political sovereignties to be formed within the original limits of the United States, as has just been shown, but, also, negatively, that it did not intend new political sovereignties, with territorial annexations, to be created without those original limits. This appears first from the very tenor of the article. All its limitations have respect to the creation of States, within the original limits. Two States shall not be joined; no new State shall be erected, within the jurisdiction of any other State, without the consent of the Legislatures of the States concerned as well as of Congress. Now, had foreign territories been contemplated, had the new habits, customs, manners, and language of other nations been in the idea of the framers of this Constitution, would not some limitation have been devised, to guard against the abuse of a power, in its nature so enormous, and so obviously, when it occurred, calculated to excite just jealousy among the States, whose relative weight would be so essentially affected by such an infusion at once of a mass of foreigners into their Councils, and into

all the rights of the country? The want of all limitation of such power would be a strong evidence, were others wanting, that the powers, now about to be exercised, never entered into the imagination of those thoughtful and prescient men, who constructed the fabric. But there is another most powerful argument against the extension of this article to embrace the right to create States without the original limits of the United States, deducible from the utter silence of all debates at the period of the adoption of the Federal Constitution, touching the power here proposed to be usurped. If ever there was a time, in which the ingenuity of the greatest men of an age was taxed to find arguments in favor of and against any political measure, it was at the time of the adoption of this Constitution. All the faculties of the human mind were, on the one side and the other, put upon their utmost stretch, to find the real and imaginary blessings or evils, likely to result from the proposed measure. Now I call upon the advocates of this bill to point out, in all the debates of that period, in any one publication, in any one newspaper of those times, a single intimation, by friend or foe to the Constitution, approving or censuring it for containing the power, here proposed to be usurped, or a single suggestion that it might be extended to such an object, as is now proposed. I do not say that no such suggestion was ever made. But this I will say, that I do not believe there is such an one anywhere to be found. Certain I am, I have never been able to meet the shadow of such a suggestion, and I have made no inconsiderable research upon the point. Such may exist—but until it be produced, we have a right to reason as though it had no existence. No sir. The people of this country at that day had no idea of the territorial avidity of their successors. It was, on the contrary, an argument, urged against the success of the project, that the territory was too extensive for a Republican form of Government. But, now there is no limits to our ambitious hopes. We are about to cross the Mississippi. The Missouri and Red river are but roads, on which our imagination travels to new lands and new States to be raised and admitted (under the power, now first usurped) into this Union, among undiscovered lands, in the west. But it has been suggested that the Convention had Canada in view, in this article, and the gentleman from North Carolina told this House, that a member of the Convention, as I understood him, either now, or lately a member of the Senate, informed him that the article had that reference. Sir, I have no doubt, the gentleman from North Carolina has had a communication such as he intimates. But, for myself, I have no sort of faith in these convenient recollections, suited to serve a turn, to furnish an apology for a party, or give color to a project. I do not deny, on the contrary I believe it very probable, that among the courings of some discursive and craving fancy, such thoughts might be started; but that is not the question. Was this an avowed object in the Convention when it formed this article? Did it enter into the conception of the

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people when its principles were discussed? Sir, it did not, it could not. The very intention would have been a disgrace both to this people and the Convention. What, sir! Shall it be intimated; shall it for a moment be admitted, that the noblest and purest band of patriots, this, or any other country, ever could boast, were engaged in machinating means for the dismemberment of the territories of a Power to which they had pledged friendship, and the observance of all the obligations which grow out of a strict and perfect amity? The honor of our country forbids and disdains such a suggestion.

But there is an argument stronger, even than all those which have been produced, to be drawn from the nature of the power here proposed to be exercised. Is it possible, that such a power, if it had been intended to be given, by the people, should be left dependent upon the effect of general expressions; and such too, as were obviously applicable to another subject; to a particular exigency contemplated at the time? Sir, what is this power, we propose now to usurp? Nothing less than a power, changing all the proportion of the weight and influence, possessed by the potent sovereignties composing this Union. A stranger is to be introduced to an equal share, without their consent. Upon a principle, pretended to be deduced from the Constitution—this Government, after this bill passes, may and will multiply foreign partners in power, at its own mere motion; at its irresponsible pleasure; in other words, as local interests, party passions, or ambitious views may suggest. It is a power, that, from its nature, never could be delegated; never was delegated; and as it breaks down all the proportions of power guarantied by the Constitution, to the States, upon which their essential security depends, utterly annihilates the moral force of this political contract. Would this people, so wisely vigilant concerning their rights, have transferred to Congress a power to balance, at its will, the political weight of any one State, much more of all the States, by authorizing it to create new States at its pleasure, in foreign countries, not pretended to be within the scope of the Constitution or the conception of the people, at the time of passing it?

This is not so much a question concerning the exercise of sovereignty, as it is who shall be sovereign. Whether the proprietors of the good old United States shall manage their own affairs in their own way; or, whether they, and their Constitution, and their political rights, shall be trampled under foot by foreigners introduced through a breach of the Constitution. The proportion of the political weight of each sovereign State, constituting this Union, depends upon the number of the States which have a voice under the compact. This number the Constitution permits us to multiply at pleasure, within the limits of the original United States; observing only the expressed limitations in the Constitution. But when in order to increase your power of augmenting this number you pass the old limits, you are guilty of a violation of the Constitution, in a fundamen-

tal point; and in one also, which is totally inconsistent with the intent of the contract, and the safety of the States, which established the association. What is the practical difference to the old partners, whether they hold their liberties at the will of a master, or whether, by admitting exterior States on an equal footing with the original States, arbiters are constituted, who by availing themselves of the contrariety of interests and views, which in such a confederacy necessarily will arise, hold the balance among the parties, which exist and govern us, by throwing themselves into the scale most conformable to their purposes? In both cases there is an effective despotism. But the last is the more galling, as we carry the chain in the name and gait of freemen.

I have thus shown, and whether fairly, I am willing to be judged by the sound discretion of the American people, that the power, proposed to be usurped, in this bill, results neither from the general nature, nor the particular provisions, of the Federal Constitution; and that it is a palpable violation of it in a fundamental point; whence flow all the consequences I have intimated.

But, says the gentleman from Tennessee (Mr. RHEA) "these people have been seven years citizens of the United States." I deny it. Sir—as citizens of New Orleans, or of Louisiana, they never have been, and by the mode proposed they never will be, citizens of the United States. They may be girt upon us for the moment, but no real cement can grow from such an association. What the real situation of the inhabitants of those foreign countries is, I shall have occasion to show presently. But, says the same gentleman, "If I have a farm have not I a right to purchase another farm in my neighborhood, and settle my sons upon it, and in time admit them to a share, in the management of my household?" Doubtless, sir. But are these cases parallel? Are the three branches of this Government owners of this farm called the United States? I desire to thank Heaven, they are not. I hold my life, liberty, and property, and the people of the State, from which I have the honor to be a Representative, hold theirs, by a better tenure than any this National Government can give. Sir, I know your virtue. And I thank the Great Giver of every good gift, that neither the gentleman from Tennessee, nor his comrades, nor any, nor all the members of this House, nor of the other branch of the Legislature, nor the good gentleman who lives in the palace yonder, nor all combined, can touch these my essential rights and those of my friends and constituents, except in a limited and prescribed form. No, sir. We hold these by the laws, customs, and principles of the Commonwealth of Massachusetts. Behind her ample shield we find refuge, and feel safety. I beg gentlemen not to act upon the principle that the Commonwealth of Massachusetts is their farm.

But, the gentleman adds, "what shall we do, if we do not admit the people of Louisiana into our Union—our children are settling that country." Sir, it is no concern of mine what he does.



JANUARY, 1811.

*Territory of Orleans.*

H. OF R.

Because his children have run wild and uncovered into the woods, is that a reason for him to break into my house, or the houses of my friends, to filch our children's clothes, in order to cover his children's nakedness? This Constitution never was, and never can be strained to lap over all the wilderness of the West, without essentially affecting both the rights and convenience of its real proprietors. It was never constructed to form a covering for the inhabitants of the Missouri, and the Red River country. And whenever it is attempted to be stretched over them, it will rend asunder. I have done with this part of my argument. It rests upon this fundamental principle, that the proportion of political power, subject only to the internal modifications permitted by the Constitution, is an inalienable, essential, intangible right. When it is touched, the fabric is annihilated. For on the preservation of these proportions depend our rights and liberties.

If we recur to the known relations existing among the States, at the time of the adoption of this Constitution, the same conclusion will result. The various interests, habits, manners, prejudices, education, situation, and views, which excited jealousies and anxieties in the breasts of some of our most distinguished citizens, touching the result of the proposed Constitution, were potent obstacles to its adoption. The immortal leader of our Revolution, in his letter to the President of the old Congress, written as President of the Convention which formed this compact, thus speaks on this subject: "It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion, this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests." The debates of that period will show that the effect of the slave votes, upon the political influence of this part of the country, and the anticipated variation of the weight of power to the West, were subjects of great jealousy to some of the best patriots in the Northern and Eastern States. Suppose, then, that it had been distinctly foreseen, that, in addition to the effect of this weight, the whole population of a world beyond the Mississippi was to be brought into this and the other branch of the Legislature, to form our laws, control our rights, and decide our destiny. Sir, can it be pretended that the patriots of that day would for one moment have listened to it? They were not madmen. They had not taken degrees at the hospital of idiocy. They knew the nature of man and the effect of his combinations in political societies. They knew that when the weight of particular sections of a confederacy was greatly unequal, the resulting power would be abused; that it was not in the nature of man to exercise it with moderation. The very extravagance of the intended use is a conclusive evidence against the possibility of the grant of such a power, as is here proposed. Why, sir, I have already heard of six States, and some say there will be at no great distance of time, more. I have also heard

that the mouth of the Ohio will be far to the east of the centre of the contemplated empire. If the bill is passed, the principle is recognised. All the rest are mere questions of expediency. It is impossible such a power could be granted. It was not for these men that our fathers fought. It was not for them this Constitution was adopted. You have no authority to throw the rights and liberties, and property of this people, into a "hotch-pot" with the wild men on the Missouri, nor with the mixed, though more respectable race of Anglo-Hispano-Gallo Americans, who bask on the sands, in the mouth of the Mississippi. I make no objection to these from their want of moral qualities or political light. The inhabitants of New Orleans are, I suppose, like those of all other countries, some good, some bad, some indifferent.

As then the power in this bill proposed to be usurped, is neither to be drawn from the general nature of the instrument, nor from the clause just examined, it follows, that if it exist anywhere, it must result from the treaty-making power. This the gentleman from Tennessee (Mr. RHEA) asserts—but the gentleman from North Carolina (Mr. MACON) denies; and very justly. For what a monstrous position is this, that the treaty-making power has the competency to change the fundamental relations of the Constitution itself! That a power under the Constitution should have the ability to change and annihilate the instrument from which it derives all its power—and if the treaty-making power can introduce new partners to the political rights of the States, there is no length, however extravagant, or inconsistent with the end, to which it may not be wrested.

The present President of the United States, when a member of the Virginia Convention for adopting the Constitution, expressly declares that the treaty-making power has limitations; and he states this as one, "that it cannot alienate any essential right." Now, is not here an essential right to be alienated? The right to that proportion of political power which the Constitution has secured to every State, modified only by such internal increase of States as the existing limits of the Territories at the time of the adoption of the Constitution permitted. The debates of that period chiefly turned upon the competency of this power to bargain away any of the old States. It was agreed, at that time, that by this power old States within the ancient limits could not be sold from us. And I maintain that, by it, new States without the ancient limits cannot be saddled upon us. It was agreed, at that time, that the treaty-making power "could not cut off a limb." And I maintain, that neither has it the competency to clap a hump upon our shoulders. The fair proportions devised by the Constitution are in both cases marred, and the fate and felicity of the political being, in material particulars, related to the essence of his constitution, affected. It was never pretended, by the most enthusiastic advocates for the extent of the treaty-making power, that it exceeded that of the King of Great Britain. Yet, I ask, suppose that Monarch should make a treaty,

stipulating that Hanover or Hindostan should have a right of representation on the floor of Parliament, would such a treaty be binding? No, sir; not, as I believe, if a House of Commons and of Lords could be found venal enough to agree to it. But although in that country the three branches of its legislature are called omnipotent, and the people might not deem themselves justified in resistance, yet here there is no apology of this kind; the limits of our power are distinctly marked; and when the three branches of this Government usurp upon this Constitution in particulars vital to the liberties of this people, the deed is at their peril.

I have done with the Constitutional argument. Whether I have been able to convince any member of this House, I am ignorant—I had almost said indifferent. But this I will not say, because I am, indeed, deeply anxious to prevent the passage of this bill. Of this I am certain, however, that when the dissension of this day is passed away, when party spirit shall no longer prevent the people of the United States from looking at the principle assumed in it, independent of gross and deceptive attachments and antipathies, that the ground here defended will be acknowledged as a high Constitutional bulwark, and that the principles here advanced will be appreciated.

I will add one word, touching the situation of New Orleans. The provision of the treaty of 1803, which stipulates that it shall be "admitted as soon as possible," does not therefore imply a violation of the Constitution. There are ways in which this may constitutionally be effected—by an amendment of the Constitution, or by reference to conventions of the people in the States. And I do suppose, that, in relation to the objects of the present bill, (with the people of New Orleans,) no great difficulty would arise. Considered as an important accommodation to the Western States, there would be no violent objection to the measure. But this would not answer all the projects to which the principle of this bill, when once admitted, leads, and is intended to be applied. The whole extent of Louisiana is to be cut up into independent States, to counterbalance and to paralyze whatever there is of influence in other quarters of the Union. Such a power, I am well aware that the people of the States would never grant you. And therefore, if you get it, the only way is by the mode adopted in this bill—by usurpation.

The objection here urged is not a new one. I refer with great delicacy to the course pursued by any member of the other branch of the Legislature; yet I have it from such authority that I have an entire belief of the fact, that our present Minister in Russia, then a member of that body, when the Louisiana treaty was under the consideration of the Senate, although he was in favor of the treaty, yet expressed great doubts on the ground of constitutionality, in relation to our control over the destinies of that people, and the manner and the principles on which they could be admitted into the Union. And it does appear that he made two several motions in that body,

having for their object, as avowed, and as gathered from their nature, an alteration in the Constitution, to enable us to comply with the stipulations of that Convention.

I will add only a few words in relation to the moral and political consequences of usurping this power. I have said, that it would be a virtual dissolution of the Union; and gentlemen express great sensibility at the expression. But the true source of terror is not the declaration I have made, but the deed you propose. Is there a moral principle of public law better settled, or more conformable to the plainest suggestions of reason, than that the violation of a contract by one of the parties may be considered as exempting the other from its obligations? Suppose, in private life, thirteen form a partnership, and ten of them undertake to admit a new partner without the concurrence of the other three, would it not be at their option to abandon the partnership, after so palpable an infringement of their rights? How much more, in the political partnership, where the admission of new associates, without previous authority, is so pregnant with obvious dangers and evils! Again: it is settled as a principle of morality, among writers on public law, that no person can be obliged, beyond his intent at the time of the contract. Now, who believes, who dare assert, that it was the intention of the people, when they adopted this Constitution, to assign, eventually, to New Orleans and Louisiana, a portion of their political power, and to invest all the people those extensive regions might hereafter contain with an authority over themselves and their descendants? When you throw the weight of Louisiana into the scale, you destroy the political equipoise contemplated at the time of forming the contract. Can any man venture to affirm that the people did intend such a comprehension as you now, by construction, give it; or can it be concealed that, beyond its fair and acknowledged intent, such a compact has no moral force? If gentlemen are so alarmed at the bare mention of the consequences, let them abandon a measure which sooner or later will produce them. How long before the seeds of discontent will ripen, no man can foretell; but it is the part of wisdom not to multiply or scatter them. Do you suppose the people of the Northern and Atlantic States will, or ought to, look on with patience and see Representatives and Senators from the Red river and Missouri pouring themselves upon this and the other floor, managing the concerns of a seaboard fifteen hundred miles at least from their residence, and having a preponderancy in councils, into which, constitutionally, they could never have been admitted? I have no hesitation upon this point. They neither will see it, nor ought to see it, with content. It is the part of a wise man to foresee danger, and to hide himself. This great usurpation, which creeps into this House under the plausible appearance of giving content to that important point, New Orleans, starts up a gigantic power to control the nation. Upon the actual condition of things, there is, there can be, no need of concealment. It is apparent to the blindest

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*Relations with Great Britain.*

H. OF R.

vision. By the course of nature, and conformable to the acknowledged principles of the Constitution, the sceptre of power in this country is passing towards the Northwest. Sir, there is to this no objection. The right belongs to that quarter of the country; enjoy it; it is yours. Use the powers granted as you please; but take care, in your haste after effectual dominion, not to overload the scales by heaping it with these new acquisitions. Grasp not too eagerly at your purpose. In your speed after uncontrolled sway, trample not down this Constitution. Already the old States sink in the estimation of members, when brought into comparison with these new countries. We have been told, that "New Orleans was the most important point in the Union." A place out of the Union the most important place within it! We have been asked, "What are some of the small States, when compared with the Mississippi Territory?" The gentleman from that Territory, (Mr. POINDEXTER,) spoke the other day of the Mississippi as "of a high road between" —. Good heavens, between what, Mr. Speaker? Why, "The Eastern and Western States." So that all the Northwestern Territories, all the countries once the extreme western boundary of our Union, are hereafter to be denominated Eastern States.

[Mr. POINDEXTER explained. He said that he had not said that the Mississippi was to be the boundary between the Eastern and Western States. He had merely thrown out a hint, that, in erecting new States, it might be a good high-road between the States on its waters. His idea had not extended beyond the new States, on the waters of the Mississippi.]

I make no great point of this matter. The gentlemen will find, in the National Intelligencer, the terms to which I refer. There will be seen, I presume, what he has said, and what he has not said. The argument is not affected by the explanation. New States are intended to be formed beyond the Mississippi. There is no limit to men's imaginations, on this subject, short of California and Columbia river. When I said that the bill would justify a revolution, and would produce it, I spoke of its principle and its practical consequences. To this principle and those consequences, I would call the attention of this House and nation. If it be about to introduce a condition of things absolutely insupportable, it becomes wise and honest men to anticipate the evil, and to warn and prepare the people against the event. I have no hesitation on the subject. The extension of this principle to the States, contemplated beyond the Mississippi, cannot, will not, and ought not, to be borne. And the sooner the people contemplate the unavoidable result, the better; the more likely that convulsions may be prevented; the more hope that the evils may be palliated or removed.

Mr. Speaker: What is this liberty of which so much is said? Is it to walk about this earth, to breathe this air, and to partake the common blessings of God's providence? The beasts of the field and the birds of the air unite with us in such

privileges as these. But man boasts a purer and more etherial temperature. His mind grasps in its view the past and the future, as well as the present. We live not for ourselves alone. That which we call liberty, is that principle on which the essential security of our political condition depends. It results from the limitations of our political system, prescribed in the Constitution. These limitations, so long as they are faithfully observed, maintain order, peace, and safety. When they are violated in essential particulars, all the concurrent spheres of authority rush against each other, and disorder, derangement, and convulsion are, sooner or later, the necessary consequences.

With respect to this love of our Union, concerning which so much sensibility is expressed, I have no fear about analyzing its nature. There is in it nothing of mystery. It depends upon the qualities of that Union, and it results from its effects upon our and our country's happiness. It is valued for "that sober certainty of waking bliss," which it enables us to realize. It grows out of the affections, and has not, and cannot be made to have, anything universal in its nature. Sir, I confess it, the first public love of my heart is the Commonwealth of Massachusetts. There is my fireside; there are the tombs of my ancestors—

"Low lies that land, yet blest with fruitful stores,  
Strong are her sons, though rocky are her shores;  
And none, ah! none, so lovely to my sight,  
Of all the lands which Heaven o'erspreads with light."

The love of this Union grows out of this attachment to my native soil, and is rooted in it. I cherish it, because it affords the best external hope of her peace, her prosperity, her independence. I oppose this bill from no animosity to the people of New Orleans, but from the deep conviction that it contains a principle incompatible with the liberties and safety of my country. I have no concealment of my opinion. The bill, if it passes, is a death-blow to the Constitution. It may, afterwards, linger; but lingering, its fate will, at no very distant period, be consummated.

When Mr. QUINCY had concluded, he moved that the said bill be postponed indefinitely.

Mr. GARLAND said he had a report to make, from the Committee of Enrolled Bills, of a confidential nature.

A motion was made to adjourn, and lost.

The bill was ordered to lie on the table, and stangers were excluded for a few minutes.

#### RELATIONS WITH GREAT BRITAIN.

When the doors were opened, the following Message, received in the course of the day, was read:

*To the Senate and House of  
Representatives of the United States:*

I transmit to Congress copies of a letter from the Minister Plenipotentiary of the United States, at London, to the Secretary of State, and of another, from the same, to the British Secretary for Foreign Affairs.

JAMES MADISON.

JANUARY 12, 1811.

Mr. Pinkney to Mr. Smith.

LONDON, November 5, 1810.

SIR: I have presented a second note, of which a copy is enclosed, to Lord Wellesley, on the subject of the Orders in Council, under an impression that the state of the King's health (for which I beg to refer you to the paper herewith transmitted) did not render it improper, and that if it was not improper on that account, it was indispensable on every other.

The day had gone by when the Berlin and Milan decrees were to cease to operate, according to the communication made by the Government of France to the American Minister at Paris, and published in the official journal of that Government; and yet no step whatever had been taken, or apparently thought of, towards the revocation of the British orders. I had received no explanation of the reasons of this backwardness, and no such assurance, looking to the future, as could justify an opinion, that it would not continue. Lord Wellesley's letter of the 31st of August, which I had left unanswered till after 1st of November, that I might stand on the strongest possible ground when I did answer it, made no profession of being a present measure, and (though from obvious motives, I have not so represented it in my note to him of the third instant) was vague and equivocal as a prospective pledge. It defined nothing, and was so far from warranting any specific expectation, that it seemed rather to take away the very little of precision which belonged to former declarations on the same point. It was highly important to the commerce of the United States, that this ambiguity should be cleared away, with all practicable expedition, and if it could not be removed, that no presumption should be afforded of a disposition on the part of the United States to acquiesce in it. My note to Lord Wellesley was written and delivered upon these inducements.

In the King's actual situation, the Orders in Council can scarcely be formally recalled, even if the Cabinet are so inclined; but it does not follow that something may not be done (though I have no reason to think that anything will be done,) which may be productive of immediate advantage, and at any rate prepare the way for the desired repeal.

I have the honor to be, with great consideration, sir, your most obedient humble servant,

WM. PINKNEY.

Hon. ROBERT SMITH, *Secretary of State.*

P. S. This letter is written in great haste, that I may send it to Liverpool by this evening's mail.

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, Nov. 3, 1810.

MY LORD: In my note of the 25th of August, I had the honor to state to your Lordship, that I had received from the Minister Plenipotentiary of the United States, at Paris, a letter, dated the 6th of that month, in which he informed me, that he had received from the French Government a written and official notice, that it had revoked the decrees of Berlin and Milan, and that, after the first of November, those decrees would cease to have any effect; and I expressed my confidence, that the revocation of the British Orders in Council, of January and November, 1807, and April, 1809, and of all other orders, dependent upon, analogous to, or in execution of them, would follow of course.

Your Lordship's reply, of the 31st of August, to that note, repeated a declaration of the British Minister in

America, made, as it appears, to the Government of the United States in February, 1808, of "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary;" and added an official assurance, that, "whenever the repeal of the French decrees should have actually taken effect, and the commerce of neutral nations should have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."

Without departing, in any degree, from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French decrees would be immediately followed by at least a like revocation of the orders of England, I must remind your Lordship, that the day has now passed when the repeal of the Berlin and Milan edicts, as communicated to your Lordship, in the note above-mentioned, and published to the whole world, by the Government of France, in the *Moniteur* of the 9th of September, was, by the terms of it, to take effect. That it has taken effect, cannot be doubted; and it can as little be questioned, that, according to the repeated pledges, given by the British Government, on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system, to which your Lordship's reply to my note of the 25th of August alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States, that the Government of Great Britain should lose no time in disclosing with frankness and precision its intentions on this head. Intelligence of the French repeal has reached America, and commercial expeditions have doubtless been founded upon it. It will have been taken for granted that the British obstructions to those expeditions, having thus lost the support which, however, insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such Orders in Council as were subsequent in date to the decrees of France, will be added the annulment of the antecedent order to which my letter respecting blockades particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British Government shall have determined not to remove those obstructions with all practicable promptitude, I trust that my Government will be apprized, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests; and that the reasons upon which that determination may have been formed, will not be withheld from it.

I have the honor to be, with high consideration, my Lord, your Lordship's most obedient humble servant,

WM. PINKNEY.

The Message and documents were referred to the Committee of Foreign Relations.

TUESDAY, January 15.

The bill from the Senate, entitled "An act authorizing a subscription, on the part of the Uni-

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*Proceedings.*

H. OF R.

ted States, to the stock of the Ohio Canal Company," was read twice, and committed to a Committee of the Whole on Friday next.

The bill from the Senate, entitled "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company," was read twice, and committed to the Committee of the Whole last mentioned.

The bill from the Senate, entitled "An act for the relief of the heirs of the late Major General Anthony Wayne," was read twice, and committed to a Committee of the Whole to-morrow.

Mr. KEY, from the committee appointed on the twelfth ultimo, presented a bill to change the name of Lewis Grant, to that of Lewis Grant Davidson.

A message from the Senate informed the House that the Senate have passed four bills, with the following titles:

"An act authorizing the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the territory of Michigan;"

"An act to incorporate the subscribers to the Farmers' Bank of Alexandria;"

"An act to incorporate the Bank of Potomac;"

and  
"An act to incorporate the bank of Washington;" to which bills they desire the concurrence of this House.

Four Messages were received from the President of the United States.

The first, transmitting to the House of Representatives reports of the Superintendent of the City, and of the Surveyor of the Public Buildings, on the subject of their resolution of the 28th of December last.

Second, transmitting to Congress an account of the contingent expenses of the Government for the year 1810.

Third, transmitting to Congress a report from the Surveyor of the Public Buildings, relative to the progress and present state of them.

The fourth, is as follows:

*To the House of Representatives of the United States:*

I transmit to the House of Representatives copies of the documents referred to in their resolution of the fourth instant.

JAMES MADISON.

JANUARY 14, 1811.

*By the President of the United States.*

#### A PROCLAMATION.

WHEREAS by the fourth section of the act of Congress, passed on the first day of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," it is provided "that in case either Great Britain or France shall, before the third of March next, so modify or revoke her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not, within three months thereafter, so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act,

entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,' shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived, and have full force and effect so far as relates to the dominions, colonies, and dependencies, and to the articles, the growth, produce, or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid."

And whereas, it has been officially made known to this Government that the edicts of France violating the neutral commerce of the United States have been so revoked as to cease to have effect on the first of the present month: Now, therefore, I, JAMES MADISON, President of the United States, do hereby proclaim that the said edicts of France have been so revoked as that they ceased, on the said first day of the present month, to violate the neutral commerce of the United States, and that, from the date of these presents, all the restrictions imposed by the aforesaid act shall cease and be discontinued in relation to France and her dependencies.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the [L. s.] same with my hand, at the city of Washington, this second day of November, in the year of our Lord one thousand eight hundred and ten, and of the independence of the United States the thirty-fifth.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

TREASURY DEPARTMENT, Nov. 5, 1810.

SIR: You will herewith receive a proclamation of the President of the United States, announcing the revocation of the edicts of France which violated the neutral commerce of the United States, and that the restrictions imposed by the act of May first, last, accordingly cease, from this day, in relation to France. French armed vessels may, therefore, be admitted into the harbors and waters of the United States, anything in that law to the contrary notwithstanding.

It also follows, that, if Great Britain shall not, on the second day of February next, have revoked, or modified in like manner her edicts violating the neutral commerce of the United States, the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the "Act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," shall, in conformity with the act first above mentioned, be revived, and have full force and effect so far as relates to Great Britain and her dependencies, from and after the said second day of February next. Unless, therefore, you shall, before that day, be officially notified by this Department of such revocation or modification, you will, from and after the said day, carry into effect the above mentioned sections, which prohibit both the entrance of British vessels of every description into the harbors and waters of the United States, and the importation into the United States of any articles the growth, produce, or manufacture, of the dominions, colonies, and dependencies of Great

Britain, and of any articles whatever, brought from the said dominions, colonies, and dependencies.

I am, respectfully, sir, your obedient servant,  
ALBERT GALLATIN.

To the Collector of —.

The Messages and documents were read, and ordered to lie on the table.

### COMMERCIAL INTERCOURSE.

Mr. EPPES, from the Committee on Foreign Relations, presented a bill supplemental to the act concerning the commercial intercourse between the United States and Great Britain and France; and for other purposes; which was read twice, and committed to a Committee of the Whole on Monday next.

The bill is as follows:

A Bill supplementary to the act concerning the commercial intercourse between the United States and Great Britain and France, and for other purposes.

*Be it enacted, &c.* That, in case Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, the President of the United States shall declare the fact by proclamation, and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification in any suit or prosecution which may be instituted under this act, or the act to which this act is a supplement. And the restrictions imposed or which may be imposed by virtue of this act, or the act to which this is a supplement, shall, from the date of such proclamation, cease and be discontinued.

SEC. 2. *And be it further enacted,* That, from and after the second day of February next, in case the proclamation aforesaid shall not have been issued, the entrance of the harbors and waters of the United States and the territories thereof be and the same is hereby interdicted to all ships or vessels sailing under the flag of Great Britain, or owned in whole or in part by any citizen or subject thereof; vessels hired, chartered, or employed by the Government of Great Britain for the sole purpose of carrying letters or despatches, and also vessels forced in by distress, or by the dangers of the sea only excepted; and if any ship or vessel sailing under the flag of Great Britain, or owned in whole or in part by any citizen or subject thereof, and not excepted as aforesaid, shall, after the said second day of February next, arrive either with or without a cargo, within the limits of the United States or the territories thereof, such ship or vessel, together with the cargo, if any, which may be found on board, shall be forfeited, and may be seized and condemned in any court of the United States or territories thereof, having competent jurisdiction.

SEC. 3. *And be it further enacted,* That, from and after the second day of February next, it shall not be lawful to import into the United States, or territories thereof, any goods, wares, or merchandise whatever, from any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, nor from any port or place in the actual possession of Great Britain; nor shall it be lawful to import into the United States or the territories thereof, from any foreign port or place whatever, any goods, wares, or merchandise whatever, being of the growth, produce, or manufacture of Great Britain or Ireland, or of any of the colonies or dependencies of Great Britain, or being of the growth produce or manufac-

ture of any place or country in the actual possession of Great Britain: *Provided,* That nothing herein contained shall be construed to affect the cargoes of ships or vessels wholly owned by a citizen or citizens of the United States which had cleared for any port beyond the Cape of Good Hope, prior to the tenth day of November, eighteen hundred and ten.

SEC. 4. *And be it further enacted,* That whenever any article or articles, the importation of which is prohibited by this act, shall, after the second day of February next, be imported into the United States or the territories thereof, contrary to the true intent and meaning of this act, or shall, after the said second day of February next, be put on board of any ship or vessel, boat, raft, or carriage, with intention of importing the same into the United States or the territories thereof, all such articles, as well as all other articles, on board the same ship or vessel, boat, raft, or carriage, belonging to the owner of such prohibited articles, shall be forfeited; and the owner thereof shall moreover forfeit and pay treble the value of such articles.

SEC. 5. *And be it further enacted,* That if any article or articles, the importation of which is prohibited by this act, shall, after the second day of February next, be put on board of any ship or vessel, boat, raft, or carriage, with intention to import the same into the United States or the territories thereof, contrary to the true intent and meaning of this act, and with the knowledge of the owner or master of such ship or vessel, boat, raft, or carriage, such ship or vessel, boat, raft, or carriage, shall be forfeited, and the owner and master thereof shall moreover each forfeit and pay treble the value of such articles.

SEC. 6. *And be it further enacted,* That if any article or articles, the importation of which is prohibited by this act, and which shall nevertheless be on board any ship or vessel, boat, raft, or carriage, arriving after the said second day of February next in the United States or the territories thereof, shall be omitted in the manifest, report, or entry of the master, or the person having the charge or command of such ship or vessel, boat, raft, or carriage, or shall be omitted in the entry of the goods owned by the owner or consigned to the consignee of such articles, or shall be imported or landed, or attempted to be imported or landed without a permit, the same penalties, fines, and forfeitures, shall be incurred and may be recovered, as in the case of similar omission or omissions, landing, importation, or attempt to land or import, in relation to articles liable to duties on their importation into the United States.

SEC. 7. *And be it further enacted,* That every collector, naval officer, surveyor, or other officer of the customs, shall have like power and authority to seize goods, wares, and merchandise imported contrary to the extent and meaning of this act, to keep the same in custody until it shall have been ascertained whether the same have been forfeited or not, and to enter any ship or vessel, dwelling-house, store, building or other place, for the purpose of searching for, and seizing any such goods, wares, and merchandise, which he or they now have by law in relation to goods, wares, and merchandise subject to duty; and if any person or persons shall conceal or buy any goods, wares, or merchandise, knowing them to be liable to seizure by this act, such person or persons shall, on conviction thereof, forfeit and pay a sum double the amount or value of the goods, wares, and merchandise so concealed or purchased.

SEC. 8. *And be it further enacted,* That any vessel or merchandise which shall be seized prior to the fact

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being ascertained whether Great Britain shall, on or before the second day of February next, have revoked or modified her edicts in the manner above-mentioned, may be restored on application of the parties, on their giving bond with approved sureties to the United States, in a sum equal to the value thereof, to abide the decision of the proper court of the United States thereon—and any such bond shall be considered as satisfied if Great Britain shall, on or before the said second day of February next, have revoked or modified her edicts in the manner above-mentioned.

SEC. 9. *And be it further enacted*, That no vessel which shall have departed from a British port before the second day of February next, and no merchandise imported in such vessel which shall have been put on board the same before the proclamation of the President of the United States, of the second day of November last, shall have been known at such port, shall be liable to seizure or forfeiture on account of any infraction or presumed infraction of the provisions of this act, or of the act to which this act is a supplement.

SEC. 10. *And be it further enacted*, That the following additions shall be made to the oath or affirmation taken by the masters or persons having the charge or command of any ship or vessel arriving at any port of the United States or the territories thereof, after the second day of February next, viz: "I further swear (or affirm) that there are not, to the best of my knowledge and belief, on board (insert the denomination and name of the vessel) any goods, wares, or merchandise, the importation of which into the United States or the territories thereof, is prohibited by law; and I do further swear (or affirm) that if I shall hereafter discover or know of any such goods, wares, or merchandise, on board the said vessel, or which shall have been imported in the same, I will immediately and without delay make due report thereof to the collector of the port of this district.

SEC. 11. *And be it further enacted*, That the following addition be made after the second day of February next to the oath or affirmation taken by importers, consignees, or agents, at the time of entering goods imported into the United States or the territories thereof, viz: I also swear, or affirm, that there are not, to the best of my knowledge and belief, among the said goods, wares, and merchandise, imported or consigned as aforesaid, any goods, wares, or merchandise, the importation of which into the United States or the territories thereof, is prohibited by law, and I do further swear, or affirm, that if I shall hereafter discover or know of any such goods, wares, and merchandise among the goods, wares, and merchandise imported or consigned as aforesaid, I will immediately and without delay report the same to the collector of this district.

SEC. 12. *And be it further enacted*, That all penalties and forfeitures incurred under this act, or the act to which this act is a supplement, may be sued for, prosecuted, and recovered with cost of suit, by action of debt, in the name of the United States of America, or by indictment or information, in any court having competent jurisdiction to try the same; and such penalties and forfeitures may be examined, mitigated, or remitted, in like manner and under the like conditions and restrictions, as are prescribed, authorized, and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned, passed the 3d day of March, 1797, and made perpetual by an act passed the 11th day of February, 1800.

SEC. 13. *And be it further enacted*, That it shall be lawful for any part of the land or naval forces of the United States, and for any part of the militia of any State or Territory, in the actual service of the United States, to make seizure of any vessel or merchandise liable to seizure and forfeiture by reason of any infraction of the provisions of this act, or of the act to which this act is a supplement. And in case of any such seizure made within the waters of the United States, or within the boundaries of any district of the United States, that portion of the forfeiture arising from such seizure, which, according to existing laws, would have accrued to the United States, shall, after deducting the duties payable to the United States on the importation of the merchandise thus forfeited, be distributed among the persons making such seizure, in such proportions as may be directed by the President of the United States—and if such seizure shall be made without the boundaries of any district of the United States, the whole of the forfeiture arising from such seizure shall, after deducting the duties payable on the importation of the merchandise thus forfeited, be distributed in the manner aforesaid.

SEC. 14. *And be it further enacted*, That the portion of all the penalties and forfeitures which may be incurred by reason of any infraction of the provisions of this act, or of the act to which this act is a supplement, and which portion, according to existing laws, accrued to the United States, in all cases other than those provided for by the last preceding section of this act, after deducting the duties payable to the United States on the importation of the merchandise thus forfeited, shall be distributed in the following manner: that is to say, one-half of the residue of the said portion, after deducting the duties aforesaid, shall be given to the inspector or inspectors or to the captain and crew of the revenue cutter or vessel making the seizure: and the other half of the said residue shall, in cases where there is an informer, not being in the service of the United States, be given to such informer, and in cases where there is no such informer, shall be given to the collector, to be apportioned amongst the collector, naval officer, and surveyor, in the same manner as is provided by law for the distribution of one-half the penalties and forfeitures accruing by reason of infractions of the laws for the collection of duties on the importation of merchandise into the United States; and in all cases whatever the other half shall be distributed in the same manner as is already provided by law.

SEC. 15. *And be it further enacted*, That, in all cases of seizure of merchandise in any district adjacent to the colonies or possessions of a foreign nation, made on account of any infraction of the provisions of this act, or of the act to which this act is a supplement, it shall be necessary for the claimant or claimants to prove that the merchandise thus seized was legally imported into the United States, and that the duties payable on the importation of the same had been paid or secured to be paid, and in failure of making such proof, the merchandise thus seized shall be forfeited.

SEC. 16. *And be it further enacted*, That the President of the United States be, and he hereby is authorized to hire, arm, and employ, seventy-five vessels, not exceeding in tonnage one hundred and thirty tons each, belonging to citizens of the United States, and so many seamen as shall be necessary to man the same for immediate service, in enforcing the laws of the United States on the seacoast thereof, and to dismiss the same from the service of the United States

whenever he shall deem the same expedient: *Provided, however,* That such hiring or employing shall not be for a term exceeding one year.

SEC. 17. *And be it further enacted,* That, for enabling the President of the United States to carry into effect the sixteenth section of this act the sum of —, to be paid out of any money in the Treasury not otherwise appropriated, shall be and the same is hereby appropriated.

### MIDDLESEX CANAL.

Mr. QUINCY presented a petition of the President and Directors of the Middlesex Canal Company, in the State of Massachusetts, praying Congress to authorize a subscription, on the part of the United States, to the capital stock of the said Company, and that the said subscription may be paid for in public lands; which was read, and ordered to be referred to a select committee.

Mr. SEAVER, Mr. EMOY, and Mr. GOODWYN, were appointed the said committee.

The memorial is as follows:

Boston, Dec. 7, 1810.

*To the honorable Senate and House of Representatives of the United States, in Congress assembled:*

The memorial of the proprietors of the Middlesex canal, in the State of Massachusetts, is respectfully addressed, to explain the grounds of their petition to Congress the last session, and to state more fully the relations which the works they have executed, those they have undertaken, and those to which the nature of the country in the same direction invites their enterprise, have to the public prosperity, and the good policy of the Union.

The great utility of canals, and their beneficial influence on the prosperity of an agricultural, manufacturing, and commercial people, so long experienced among the nations of Europe, and so often acknowledged by their Governments in the patronage afforded to the projectors of them, and even in their own enterprises of a similar kind, cannot be unknown to your honorable body; and the attention which the subject has already received from the National Legislature, with the importance justly given to it by the Secretary of the Treasury, in his able report to the Senate in the year 1808, may, it is presumed by your memorialists, sanction their appearing before you on this occasion.

Your memorialists, in common with other companies formed for similar purposes, have hitherto failed of reaping the advantages due to their enterprise, though the community at large has already derived from their exertions great benefits, without risk and without cost. In the completion, therefore, of an enterprise, which the public is so directly concerned in, your memorialists hope they may look, without disappointment, for the fostering aid of the Government, to whose paternal care the nation's best interests are confided, especially as the assistance prayed for will be reciprocally beneficial.

The origin and purpose of the Middlesex canal is already known to your honorable body, by the report of the Secretary of the Treasury. Your memorialists, therefore, forbear to trespass on your attention with unnecessary details, and will only so far offer a general and brief description of their canal and its dependencies, as may seem to be at this time necessary.

The river Merrimack (which is connected with Boston harbor by the Middlesex canal) takes its rise in the western mountains of New Hampshire, about thirty

miles from Connecticut river, and in its course southward, passing through a rich and populous district, receives, about the centre of the State, an equally copious stream from the Lake Winnipisiochee, and other interior waters connected therewith. The shores of these lakes are not less than two hundred miles in extent, and are generally surrounded with good lands, rapidly settling, but still bearing great quantities of oak and pine timber of the largest size, and of a superior quality. From this junction of the two branches, at the distance of ninety miles from Boston, the river continues its course southward, parallel with the leading roads of the country, till it reaches a point in the State of Massachusetts, five miles within the boundary line, near where the Middlesex canal communicates therewith, at the distance of twenty-seven miles from Boston.

In its course, the canal is led over seven rivers and streams, by aqueducts. It is often carried on deep meadows by high embankments, and through extensive ledges of rocks; it is supplied with water from Concord river, which opens into it five miles from the Merrimack, on one side, and twenty-two from Boston on the other. From thence the fall to the Merrimack is thirty-one feet, by four stone locks; and toward Boston one hundred and seven feet, by seventeen locks. The general width of the canal is thirty feet on the surface of the water, and twenty at the bottom. It is calculated to carry boats seventy-five feet long, nine and a half feet wide, drawing three feet of water, carrying twenty-five tons, drawn by one horse, conducted by two men; passing the whole distance of twenty-seven miles in one day. It also conveys rafts of timber, lumber, and fire wood, five hundred feet in length, with one horse, or a pair of oxen, attended by five men.

The expense of conducting a raft of one hundred and fifty tons of timber, through the canal, may be estimated and compared with land carriage as follows:

Five men's wages and maintenance, four days	- \$20
One pair of oxen, four days	- 5
Toll ninety cents per ton on 150 tons	- 135
	<u>\$160</u>

If the same were transported by land carriage, it would require—

Seventy-five teams of five cattle, at \$3 a day, 4 days, is \$12 a team, amounting to	- \$900 00
Seventy-five men, at \$1 a day, 4 days	- 300 00
Expense of each team, at \$1 33	- 99 75
	<u>\$1,299 75</u>

The same by water carriage, as above stated, being	- 160 00
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Makes a saving to the owner or the public of	- \$1,139 75
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The expense of conveying 100 tons of merchandise, by 50 teams of 5 cattle each, to the distance of fifty miles, or as far as the boats now ascend the Merrimack from Boston, may be estimated at \$15 per ton, amounting to	- \$1,500 00
To transport the same quantity by boats, cost \$7 a ton, or	- 790 00

Making a saving on 100 tons, or 5 boats, of	- \$800 00
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And if the advantages of having so many men and cattle, thus liberated from unproductive labor, employed in agriculture, and other productive avocations, be considered, the public still gains in a much greater ratio.

Although in the year 1804, when the canal was completed to the banks of Charles river, opposite the town of Boston, at the distance of less than a mile therefrom, the inducements to persevere appeared in as strong a light as when they first excited the proprietors to the enterprise; and, although the union of so great a river and country, with a metropolis where the produce of the interior might find a market or an outlet, seemed still to promise ultimate success and remuneration, yet much remained to be done, both to overcome the obstructions existing in the river Merrimack, and to lead the public, long habituated to land carriage, and totally inexperienced in the use of canals, to turn its attention to this great accommodation. And so much embarrassment had arisen, in consequence of the death of some of the associates, whose widows and children becoming holders of shares, were, with others of the proprietors, unable to sustain the burden of further assessments, adequate to the expense of the additional works requisite on said river, that your memorialists were unable to command funds for the execution of said works. The income of the principal canal, though increasing, has been insufficient for the current expenses, the repairs, and necessary improvements thereon.

This great work might long have remained in this state, but for the assistance obtained from the Legislature of Massachusetts, which, by granting to the corporation two townships of eastern land, enabled and induced the proprietors to undertake some of the improvements necessary to the extension of inland navigation, as originally contemplated. These works, now constructing, under certain acts of incorporation, principally with the funds borrowed on the credit of the lands above-mentioned, consist of locks, dams, and canals, in three places, viz: in Merrimack, Dumbarton, and Bow. They must necessarily cost considerably more than the said land is expected even to bring. And, in order to make the Middlesex canal good property, and as extensively useful to the public as it is capable of being, other works more interior ought to be accomplished; especially between the lakes above-mentioned, and Merrimack river, to pass a number of falls not less together than two hundred and thirty feet in perpendicular height. But such is the fertility of this district, and so great the quantity of excellent timber, which the public would thereby save from destruction by fire in clearing the land, that ample remuneration may be confidently expected.

The articles also of beef, pork, flaxseed, ashes, grain, and various others, which, on account of the distance, and the want of good roads, cannot now be brought to a market, or, if brought, are consumed by the expenses attending the land carriage, would become of sufficient value to excite a spirit of general industry even in the most remote and uncultivated parts of New Hampshire.

Nor do these observations apply only to the shores of the lakes, and the country to the north, but may, with equal propriety, be extended to the counties lying to the northwest, to which these extensive waters and the western branch of the river would, with some improvements, afford this cheap and convenient mode of conveyance. Your memorialists, fearful of trespassing

too far on the time and attention of your honorable body, refer to a map of New Hampshire to show the extensive water communications that might be made with the canal, not mentioned herein, and hasten to state the general relations and advantages likely to result from the assistance for which they have petitioned the National Government. The immediate effect of such assistance would be to increase the national strength and wealth, by giving value to millions of tons of timber now considered an encumbrance to the ground; to enhance the value of land for agricultural purposes, by providing a cheap mode of conveying its produce to market, while the inhabitants of the coast will be more abundantly and cheaply supplied; to give advantages to commerce, by enabling the merchant to find cargoes at such rates as would enable him to export them profitably, and build his ships at less cost; to augment the population of that part of the country, and enable the inhabitants to receive articles of foreign growth and origin, now become necessities of life, by boat navigation, on better terms and in greater quantities, thereby encouraging and increasing the importation, and consequently the revenues of the General Government. The easy communication with the interior, which the proposed works will afford, will be the means of essentially strengthening the frontier in a quarter where it is now most weak and vulnerable, and will attach the inhabitants in that direction still more to the Union, by a sentiment of increasing interest; our ports becoming more and more the source of this accommodation, and the vent of the produce of their industry. The canal will also be the medium of supplies to the navy yard at Charlestown, of the best material of every kind for repairing or building ships, or for completing the wharves and docks which it may be found necessary to construct there; and it is conceived it will, in this alone, save the United States thousands of dollars yearly, and enable its agents to obtain from the interior every spar and every article, not excepting iron and copper, which may, in the event of hostilities, be wanted for ships of war.

Your memorialists would further beg leave to remark, that the provisions of the act which has already passed the honorable Senate, are such that, while they may afford the proprietors of the Middlesex canal the assistance they need to complete and carry into effect the great and beneficial purposes originally contemplated, by purchasing a portion of their interest, the Government disposes of an unproductive property in lands, investing the proceeds in an institution endowed with perpetual privileges, which, to be soon profitable, requires but efficient aid; and which, from its very situation, cannot be rivalled, and must be progressive; so that, in a few years, the Government may, if occasion should require, sell the shares it may hold for money.

Your memorialists, convinced that the views they have herein taken of their enterprise, in relation to the public interests, are well founded, cannot but believe that your honorable body will be of opinion that this is one of those occasions alluded to, in the report of the Secretary of the Treasury, in which the resources of Government may, with the greatest effect and propriety, be brought in aid of private enterprise in public improvements. And they are encouraged to anticipate this result, from the deliberations of your honors, the more confidently, as it will have been made to appear, that the Middlesex canal was undertaken and executed in the faith, that so important a part of the water communication with this large and fertile terri-

tory being effected, a just sense of the great advantage to result therefrom would stimulate the people to the formation of companies for clearing the obstructions of the river Merrimack, and for executing the other necessary works detailed in this memorial; or that Government would be induced to take the shares, originally reserved, whenever a representation of these advantages, to an extensive district of country, should be made to your honorable body, and thus afford the aid necessary to bring into activity resources so important to the growth of the Union. But the want of an avenue of easy communication with the seacoast, having placed it out of the power of the people most immediately interested in New Hampshire, to raise funds sufficient for the purposes herein contemplated; and men of moneyed capital in the seaports, with only partial views of the subject, having been deterred by the hitherto unproductive state of the Middlesex canal, from engaging in similar enterprises, it is only then from the more enlarged views of an enlightened Government that the wishes of your memorialists, in relation to their object, can be realized.

They have, therefore, thought they might reiterate their appeal to Congress on the merits of their petition, which has been favorably received by the Senate, at the last session of that branch of the Legislature, persuaded they are addressing those who cannot fail of feeling an interest in this, and all other concerns touching the internal improvements of the United States.

AARON DEXTER,  
*President of the Corporation.*

JOHN C. JONES,  
*First Vice President.*

BENJAMIN JOY,  
*Second Vice President.*

WILLIAM GRAY, WILLIAM PAYNE, EBENEZER OLIVER, JOSEPH HALL, BENJAMIN WELD, JOSEPH COOLIDGE, Jr. C. GORE, R. SULLIVAN, JOHN L. SULLIVAN,	} <i>Directors.</i>
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*Agent of the Corporation.*

#### ORLEANS TERRITORY.

The House resumed the consideration of the bill authorizing the people of Orleans Territory to elect a convention to form a constitution preparatory to its admission into the Union as a free and independent State—Mr. QUINCY's motion for indefinite postponement still under consideration.

Mr. POINDEXTER.—Mr. Speaker: It is with extreme reluctance that I claim the indulgence of the House, to participate in the discussion of the subject now under consideration. I should deem it not only useless but inexcusable to trespass on your time, and delay the final question on the passage of the bill before you, but for the novel and extraordinary aspect which has been given to the debate by an honorable member from Massachusetts, (Mr. QUINCY.) The tendency of the remarks made by that gentleman is manifestly hostile to the best interests of the nation, and calculated to excite, so far as their influence extends,

a spirit of revolt among the people of the United States. I cannot, therefore, forbear to enter my protest, in the only form Constitutionally provided for the peculiar situation which I occupy on this floor, against the establishment of principles fraught with such disastrous consequences. But, sir, as various objections have been made to the passage of the bill, and as I profess to be friendly to its general objects, I shall endeavor to give some of these objections a concise examination before I proceed to notice the observations of the gentleman from Massachusetts.

It has been contended by an honorable gentleman from Connecticut, (Mr. PRITIN,) that inasmuch as the western limits of Louisiana remain undefined, the State to be formed of the present Territory of Orleans would extend its jurisdiction over the province of Texas, to Rio Bravo, and down that river to its confluence with the sea, so as to include the Bay of St. Bernard, and the whole extent of country, supposed by the American Government to be transferred by the French Republic under the name of Louisiana. This circumstance, it is alleged, will enable the Government of the new State to involve the United States in war, for the establishment of the most western boundary, to which we have asserted a claim. The gentleman has himself referred to a fact which, in my estimation, furnishes a sufficient answer to this objection. He admits, that the northern boundary of the State of Massachusetts was never definitely established until commissioners were appointed by the Government of Great Britain and the United States, to ascertain what was the true river St. Croix. Anterior to that event it was uncertain how far north the jurisdiction of Massachusetts extended; but the most scrupulous advocates for State sovereignty never imagined that the State could decide its own boundaries, and call upon the general Government to support that decision at the point of the bayonet. The difficulty was adjusted by amicable negotiation, and the river designated by the two nations became the permanent boundary of the State. Can the gentleman distinguish that case from the one which exists as to the western boundary of Louisiana? By the second section of the bill, it is provided, that the State shall be composed of all that part of the territory or country ceded *under the name of Louisiana* by the treaty made at Paris on the 30th day of April, 1803, between the United States and France, "*now contained within the limits of the Territory of Orleans*, except that part lying west of the river Iberville, and a line to be drawn along the middle of the lakes Maurepas and Ponchartrain to the ocean." The Territory of Orleans is limited indefinitely by the western boundary of Louisiana; but by an arrangement made in the Autumn of 1806, between the Commander-in-Chief of the American Army and the Commander of the Spanish forces in that quarter, it was agreed that for the present the Spaniards should not cross the Sabine, and that the American settlements should not extend to that river. To carry this arrangement into effect, the Gov-

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ernment of the United States has given instructions that the public lands should not be disposed of west of a meridian passing by Natchitoches. Beyond that line I am inclined to believe the Territorial Government of Orleans has not yet extended its authority. It follows, therefore, by a fair construction of the section to which I have referred, that the State to be formed of that territory will be confined within the same limits, until by an act of the General Government the western boundary of the cession shall be finally adjusted. It belongs exclusively to the high contracting parties, to render that certain, which by the deed of cession is equivocal, and whatever line they may consent to establish as the western extremity of the country *ceded under the name of Louisiana* will constitute the permanent limit of the State, whether it extends to Rio Bravo or the Sabine, or a meridian passing by Natchitoches. This, sir, is conformable with usage. The southern boundary of Georgia was fixed by the Treaty of the 27th day of October, 1795, with the King of Spain; and, by the Treaty of 1794 with Great Britain, the true river St. Croix was determined. In these instances, the States whose interests were involved, existed prior to, and were parties in, the adoption of the Federal Constitution; and yet no one ever questioned the right of the Government of the United States to settle the line of demarcation between them and the colonies of Great Britain and Spain. I put it to the candor of the gentleman from Connecticut to say whether the difficulty which he suggests, is not entirely removed by a reference to the practice of the Government on these occasions, similar in their nature to the present, and differing only in circumstances which rendered them more favorable to the interposition of State authorities.

But, sir, it is said, that the rights of State sovereignty ought to be withheld from the people of the Territory of Orleans because a majority of the population is composed of emigrants from France, and the descendants of Frenchmen—that among these, there exists a predominant attachment to the Government of France. I shall not attempt to controvert the fact, that there are individuals of wealth and influence in that Territory, who, from early habits and education, have imbibed a strong predilection for French laws, customs, and manners. No lapse of time, no change of situation, can obliterate the impressions which the mind receives from early precept and example. Is it to be expected that a people whose laws and usages, from time immemorial, have been materially different from those which constitute the rule of conduct in this country, and whose ignorance of our political institutions results from the very nature of the Government under which they have lived, can suddenly transfer their affections from that system of jurisprudence which has been handed down from their ancestors, to a Government whose laws they do not understand, either in theory or in practice? Such a transition cannot be reconciled without the aid of practical experience, by which the blessings of our free Constitution are demonstra-

ted in the security which it affords to the life, liberty, and property of the citizen. How far the original inhabitants of Louisiana are liable to the charge of French partiality I am not prepared to say; but I believe them to be an orderly class of society—well disposed towards the Government of the United States. Those who manifest the greatest regard for France are to be found amongst the emigrants, whose views and expectations carry them beyond the simplicity of a Republican form of government. But while I admit the existence of French influence in that quarter of the Union to a certain extent, I cannot make it the basis on which to justify a refusal to emancipate the great body of the people from the trammels of territorial vassalage. Is it a good reason, why the people who reside within the circle of the Essex junto should not enjoy equal rights with the rest of their fellow-citizens, that those who compose that association are avowedly the partisans of England? I presume a proposition to trench upon their rights would be viewed with the utmost abhorrence and detestation, as an act of political intolerance, unprecedented in the history of this Government. And yet, sir, I venture to pronounce that these British attachments, fostered and cherished amidst the wrongs and insults which we have received from that nation, not only in this *nursery of tory principles*, but in most of the commercial cities of the United States, have already produced more mischief to this nation, than the miserable French influence existing in New Orleans would produce in half a century. In a Government like this, it is in vain to expect that men will not think and act for themselves; and so far as their actions do not amount to an open violation of law, they cannot be restrained; and I, for one, am very willing to “tolerate error of opinion, when reason is left free to combat it.” By erecting this Territory into a separate and independent commonwealth, and granting to its inhabitants equal civil and political rights with the rest of the Union, you will merit the confidence and affection of those who value as they ought, the important privileges conferred upon them. You will arrest from those who seek to disturb the tranquillity of the country, by exciting feuds and internal disorder among the people, every pretext for the accomplishment of their purposes; and you will invite to this exposed section of our country a population, so necessary in the hour of danger, to resist the occupation of the shores and waters of the Mississippi by an invading enemy.

From the influence of France nothing need be feared. The distance, by which we are separated from that great Power, is a sufficient guarantee that no attempt will be made on her part to subvert our authority in Louisiana. France is not in a situation to assail us, if such a disposition existed in her ruler. The want of naval power, will, for many years to come, form an insuperable barrier to the introduction of a French army into the United States. But the people of the Territory of Orleans can never be prevailed on to commit their destinies to an adventurer;

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they enjoy not only the necessary comforts, but the luxuries of life in abundance; their increasing wealth furnishes a certain pledge of future greatness. The Government of which they now form a component part, though in many particulars different from that in whose laws they have been educated, is exempt from the desolating storm which carries misery and distress into every region of the Old World; and, under the auspices of our mild and salutary Constitution, they may repose in full confidence that their political connexion will not depend on the whim or caprice of the tyrants of Europe. It cannot be forgotten, that in the situation of colonies they were bought and sold like herds of cattle, at the will of foreign nations, without regard to their feelings or wishes. With these insuperable ties on the allegiance of the people of the Territory of Orleans, I consider it an act both of justice and policy to receive them as brothers in the great American family.

Permit me, now, sir, to call the attention of the House to the argument of the gentleman from Massachusetts. We are told by that gentleman, that the provisions of this bill are in direct hostility to the Constitution, and materially affect the rights and liberties of the whole people of the United States. That the creation of new States, or "political sovereignties," without the original limits of the United States, is an usurpation of power not warranted by a sound construction of the Constitution. In the consideration of this subject two questions arise; first, whether the United States can acquire foreign territory, and by what means? And whether the territory so acquired can be admitted into the Union as an independent State? By the fourth article of the Constitution, Congress are authorized, "to dispose of, and make all needful rules and regulations respecting the territory of the United States." This provision contains an express recognition of the right not only to possess territory, but to dispose of and regulate it in any manner which Congress may think consistent with the general good. If then the power to hold territory, and to regulate it without limitation, is expressly given to the General Government, the right to acquire it follows as an indispensable attribute of sovereignty. And this opinion is supported by the enumeration of powers given to Congress in the Constitution. A nation can extend its territorial limits either by conquest or by treaty. If in the prosecution of a just and legitimate war, or by a fair and *bona fide* contract, one nation acquires the possession of territory which originally belonged to another, it becomes incorporated with the domain of the Power to whom it is thus transferred, and cannot be distinguished from any other portion of territory over which the sovereign authority of the nation extends.

By the eighth section of the first article of the Constitution, the power is given to Congress "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;" and by the second section of the second article, the President, by and with the advice and consent of the Senate, is vested

with power "to make treaties, provided two-thirds of the Senators present concur." From these grants of power in the Constitution, it is manifest that the United States can, without a violation of that instrument, acquire and hold foreign territory. The authority to dispose of, and the means of acquiring territory, being exclusively confided to the General Government, and prohibited to the States, it would require clear and distinct negative expressions to confine that power within any particular geographical limits. The Constitution contains no prohibition of the right to acquire territory, either by war or compact, but the latter alternative has been adopted by this Government, whose policy is founded in justice, and whose object is peace.

Having shown that the United States possess, constitutionally, the power and the means of obtaining foreign territory, the only point which remains to be discussed, is, whether new States may be created without the ancient limits of the United States. In the investigation of this part of the subject, it will be necessary to take a cursory view of the treaty-making power, and of the convention between the United States and France of the 30th April, 1803. It is an universal principle in all Governments, whether their form be despotic or free, to vest the Chief Executive Magistrate, in some shape or other, with the sole power of entering into pacts, treaties, and conventions, with foreign nations; and, although the concurrence of co-ordinate departments of the Government may be necessary to give validity to the act of the Executive, in no instance can a treaty be formed without his assent. The national security against the abuse of this power consists in the solicitude which each feels to make the best bargain for the people over whom his authority extends. "In England, (says Sir *William Blackstone*,) is the King's prerogative to make treaties, leagues, and alliances with foreign States and Princes; for, it is by the laws of nations essential to the goodness of a league that it be made by the sovereign Power, and then it is binding on the whole community; and in England the sovereign power *quo ad hoc* is vested in the person of the King. Whatever contracts therefore he engages in, no other power in the Kingdom can legally delay, resist, or annul. And yet, lest this plenitude of authority should be abused, to the detriment of the public, the constitution (as was hinted before) has here interposed a check, by the means of Parliamentary impeachment, for the punishment of such Ministers as from criminal motives advise or conclude any treaty which shall afterwards be judged to derogate from the honor and interest of the nation." But, says the gentleman from Massachusetts, "Suppose that monarch should make a treaty stipulating that Hanover or Hindostan should have a right of representation on the floor of Parliament, would such a treaty be binding?" The obvious reply to this far-fetched interrogatory is, that, if these countries formed a part of the British dominions, the necessary statutes to carry such a stipulation into effect would make

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it obligatory on the British nation, and no power in the Kingdom could "legally delay, resist, or annul" it. There is nothing in the British constitution to control the treaty-making power of that country, and therefore the King may properly contract for the extension of civil and political rights. The Constitution of the United States is more guarded in this particular. The treaty-making power is composed of the President and two-thirds of the Senators present; and whenever appropriations of money are necessary to carry a treaty into effect, the immediate Representatives of the people have a salutary check on the other two branches.

This wise and judicious distribution of power forms an impenetrable bulwark around the liberties of the American people. If, from accident or design, the President should enter into engagements with a foreign nation incompatible with the general principles or express provisions of the Constitution, the interposition of the other departments will afford a seasonable corrective to such a dereliction of duty. It is, however, to be presumed, that, in all our transactions with foreign countries, the influence of national attachments will induce the Executive Councils to promote, as far as possible, the welfare of the United States. It would, indeed, be a novelty in political history, that an individual who is raised by the voluntary suffrages of his fellow-citizens to the first office in their gift should prostrate their rights and his power at the feet of a foreign Prince. Gratitude, personal respect, love of power, and in short every motive which can actuate the human mind, operate to produce a different result. These are the only restrictions which have been thought by the founders of the Constitution essential to guard against the encroachments of the treaty-making power in this country. The enumeration in the Constitution which defines the powers of the respective departments was not intended to apply to treaties and conventions entered into with foreign nations. It would have been unreasonable to have attempted a specification of all the cases in which external regulations would from time to time become expedient and necessary. No human being could foresee all the contingencies that might occur in the practical operation of the Government which require the interposition of the treaty-making power. I therefore contend that a treaty once ratified by each co-ordinate department of the Government becomes the supreme law of the land, and is as binding on this House as an article in the Constitution itself. To illustrate this position beyond the reach of contradiction, and to give to reason the aid of an express provision in the Constitution, I beg leave to quote from article six the following words: "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land. And the Judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." The distinc-

tion here taken between laws and treaties cannot be misunderstood: laws are to be made in pursuance of the Constitution, treaties "under the authority of the United States." I admit, sir, that an article in a treaty which would go to contravene an express provision of the Constitution would not be binding; but who is to be the arbiter between the treaty-making power and the Constitution? Will you confide this gigantic power to the Supreme Court of the United States, and give to that tribunal the exposition of all controversies growing out of treaties or conventions with foreign nations? I presume no gentleman will advance a doctrine so absurd and ridiculous. If, then, the other three branches of the General Government determine a treaty Constitutional, by passing the necessary laws to carry it into effect, it becomes at once the supreme law of the land; and, so far as its stipulations secure personal privileges and the rights of property, they must be fulfilled.

Let us now inquire what are the obligations which we have contracted in relation to the inhabitants of Louisiana by the Treaty of Cession with the French Republic. The third article of that treaty stipulates that "The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." And are we sitting here to deliberate whether we will perform these solemn engagements which have been entered into by the constituted authorities, and which are presented to us in the imposing attitude of the supreme law of the land? Are not the principles of the Constitution in unison with these engagements? Article four, section three: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the States concerned, as well as of the Congress." Here, then, is a general power to admit new States, and I challenge any gentleman to show that it is confined to the original territory belonging to the United States. There is no clause of the Constitution which contains such a limitation, even by the remotest implication. Such a construction would not only be contrary to the letter, but to the spirit of the article to which I have referred. For, if other territory than that which belonged to the United States at the time of the adoption of the Federal Constitution was not intended to be incorporated into the Union, why has it been the constant practice of the Government to annex Indian territory to the old States, and to form new States of lands purchased from the different tribes of Indians in the United States? They are foreign Powers—acknowledged and treated with as such, from the commencement of the Government; and the objections urged on this

occasion would apply with equal force against the extinguishment of the Indian title.

I trust, sir, that enough has been said to satisfy every candid individual of this body, that the Territory which it is the object of this bill to create into a separate Commonwealth, was fairly and constitutionally acquired; that we are bound by the sacred obligations of treaty to extend to its inhabitants all the rights, advantages, and immunities of citizens of the United States, and that there exists no Constitutional barrier to a fulfilment of that undertaking on the part of the United States. The most approved writer (*Vattel*) on public law, declares that "he who has made a promise to any one, has conferred upon him a true right to require the thing promised, and that, consequently, not to keep a perfect promise, is to violate the right of another; and is as manifest an injustice as that of depriving a person of his property. And further, as the engagements of a treaty impose on the one hand a perfect obligation, they produce on the other a perfect right. To violate a treaty, then, is to violate the perfect right of him with whom we have contracted, and this is to do him an injury." I conceive the character of the nation to be deeply involved in the question now before the House. If we refuse to perform the legal, moral, and political obligation which is imposed on us by the Treaty of Cession, to incorporate the inhabitants of the ceded Territory into the Union, and to admit them to the enjoyment of all the rights and privileges of citizens, we shall deserve to be branded with the odious epithet of a faithless nation, we shall merit the censure of the civilized world, and the just resentment of the people to whom these rights and privileges ought to be extended.

Mr. Speaker, I enter with lively sensibility on that portion of the remarks made by the honorable gentleman from Massachusetts, which menace insurrection and a dissolution of the Union. Had these sentiments fallen from the gentleman in the ardor of debate, while the imagination was inflamed with an unconquerable zeal to prove the impolicy of the measure under consideration, or had they been offered in the shape of possible results, I should have regarded them only with pity and contempt; but the gentleman declares it to be his "*deliberate opinion*," that if this bill passes, the bonds of this Union are virtually dissolved; that the States which compose it are free from their moral obligations, and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation—amicably if they can, violently if they must." Influenced by a desire to stamp on these expressions their merited disgrace, and to preserve dignity and decorum in our deliberations, I felt it my duty to call the gentleman to order. Perhaps in doing so, I was actuated more by a sudden impulse of feeling than by an accurate knowledge of Parliamentary proceedings. I am still, however, impressed with a conviction that these sacred walls, the sanctuary of the liberties of the American people, ought not to be polluted by

direct invitations to rebellion against the Government, of which we are a constituent part; but the liberality and the courtesy of the House have overruled that opinion, and the gentleman was permitted to proceed. Are we, then, about to commit an act which is to burst asunder the bonds of our political Union, and prostrate the glorious fabric which has been reared by the valor of our ancestors? Sir, when I look at the events which led to the acquisition of Louisiana, and the efforts made at that time by those who opposed the measures of the Administration to call forth the national energies for the purpose of securing that important point by conquest, lest it should fall into the hands of a powerful neighbor, and compare them with the declarations now made by the gentleman from Massachusetts, I am filled with astonishment. I cannot believe that the party with whom that gentleman is in the habit of acting, will support the visionary theories and frantic anticipations which he has advanced on the present occasion. For the honor of every real American who is ranked with the Federal party, I hope that these idle dreams of political insanity will be suffered to vanish without a struggle before the effulgent sunshine of patriotism.

I should, indeed, rejoice to find, that, in this instance, as in the baseless impeachment instituted by the gentleman against the illustrious Jefferson, he should be once more exhibited to a laughing audience, a solitary unit on your journals in favor of principles so abhorrent to every good citizen. But, sir, permit me to analyze the case which it is said will be productive of this great national calamity. Previous to the adoption of the Federal Constitution, while Louisiana was a Spanish province, the free navigation of the river Mississippi was an object which engaged the attention and occupied the labors of the ablest statesmen known in the councils of the country. In the celebrated debates on the ratification of the Constitution, in the Convention of Virginia, it was urged as a reason against the adoption of the new form of Government, that the commerce of the Mississippi would be less secure than under the Confederation. In answer to these suggestions, which were supported with great zeal and ability, the distinguished character who now fills the exalted station of Chief Magistrate, stated, that "neither the old Confederacy nor the new Constitution, involves the right to give the navigation of the Mississippi." It was admitted by all to be essential to the welfare of every section of the United States to maintain the right to navigate freely this great outlet to the products of the Western States. Soon after the new Government was established, negotiations were commenced to secure this important object, and by the fourth article of the treaty concluded on the 27th day of October, 1795, between the United States and Spain, it was stipulated, that "the navigation of the Mississippi, in its whole breadth, from its source to the ocean, shall be free only to his subjects, and to citizens of the United States, unless he should

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'extend this privilege to the subjects of other Powers by special convention." And in the 22d article of the same treaty it was agreed, that in consequence of the stipulations contained in the fourth article, His Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandise and effects in the port of New Orleans, and to export them from thence without laying any other duty, than a fair price for the hire of the stores, and His Majesty promises either to continue this permission, if he finds during that time that it is not prejudicial to the interest of Spain, or if he should not agree to continue it there, he will assign to them on another part of the banks of the Mississippi an equivalent establishment." The subject remained in this situation until the year 1802, when the Spanish authorities at New Orleans, after the country had been transferred to France by the Treaty of St. Ildefonso, prohibited the deposit of American "merchandise and effects" at New Orleans, without assigning, on another part of the banks of the Mississippi, an equivalent establishment. The circumstances were communicated to Congress by President Jefferson, and a Special Envoy nominated, with a view to obtain the country on both sides the Mississippi, by amicable negotiation. Well, sir, what was the conduct of gentlemen whose political opinions correspond with those of the gentleman from Massachusetts on that occasion? We were told that it would not do to trust to the tardy process of negotiation in a matter which involved, so materially, the interest of the nation; immediate war was recommended, and the wise measure adopted by President Jefferson was loudly condemned. An eloquent gentleman from Pennsylvania, then a member of the other House, (Mr. Ross,) asserted, that "to the free navigation of that river we had an undoubted right from Nature, and from the position of the Western country"—that "hostility, in its most offensive shape, had been offered by those who disclaim all right to the soil, and the sovereignty of that country; an hostility fatal to the happiness of the Western world. Why not seize, then, what is so essential to us as a nation?" And in a subsequent part of the remarks made by the same gentleman, he admonishes the Government in these emphatic terms: "Plant yourselves on the river, fortify its banks, invite those who have an interest at stake to defend it, do justice to yourselves when your adversaries deny it, and leave the event to Him who rules the fate of nations." The disaffection of the Western States was then predicted by the same prophetic spirit which now warns us of Eastern malcontents. New Orleans was then the goal of their affections. The country must be instantly conquered, or the Union would be dismembered. But the wisdom of the Statesman who then filled the Executive chair foresaw a different result. The dignified and honorable appeal, which was made to the justice and true interests of the French nation, terminated in the purchase of

Louisiana. This event, so highly advantageous to the nation, diffused general joy throughout the United States; but the heroes whose valor would have hurried them into a premature and unjust war to accomplish this end, found no difficulty in expelling from their minds the idea, that this country was "so essential to us as a nation." New Orleans suddenly lost all its charms. Louisiana became a wilderness of swamps and marshes, and the vast extent of territory which we had acquired was one day to produce the downfall of the Republic.

The gentleman from Massachusetts seems to imagine, that the crisis has arrived when this prediction is to be fulfilled. You are, says he, about to admit a "new partner into the confederacy without the original limits of the United States, which tends to diminish the political power of the original partners, and according to the undeniable principles of moral law the obligation of our national compact is dissolved." What, sir, does the gentleman mean by political power in the original partners? Have we such a thing as patent power in the United States? Thank God, sir, we have neither Counts, Dukes, or Lords, nor members of the Grand Legion of Honor, nor any other grade of privileged orders in this country who possess "political power" by lineal or collateral descent, or by purchase. In the Government all power is vested in and flows from the people, and we sit here, not as their masters, but as their servants, and to that august tribunal are we responsible for the fidelity with which we execute the trust confided to us. Political power then being in the great body of the people, it cannot be definitely apportioned among the States, but each State possesses weight proportionate to its numbers. If for instance two-thirds of the population of Virginia should remove to the Mississippi Territory, which they have a perfect right to do, the influence of Virginia in the National Councils, in point of representation, would be two-thirds less than at present; and it might with equal justice be said that a State, inferior in political power at the time of the compact was entered into, should remain in that situation *ad infinitum*, as to contend that a number of citizens residing in a Territory belonging to the United States should not be admitted to the enjoyment of those political rights, to which from their numbers they are entitled. It results from the very nature of our Government, that political influence fluctuates in proportion to the augmentation or diminution of population, in the various sections of the country. The addition of fifty thousand inhabitants to the whole people of the United States increases the political weight of the whole, just in the same ratio that a similar addition to an army would increase its physical strength. If, as the gentleman has alleged, the proportions of political power, in the several States, is an "inalienable, essential, intangible right," it must forever remain the same, like a chartered privilege, let the weight of population rest where it may. Such a principle is inconsistent with the genius of a free Government, and

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incompatible with the sovereign authority of the people.

Mr. Speaker, on all the great questions which have been discussed in this House for the last four years, a war with England and a separation of the Eastern States from the Union have been constantly thrown in the way to obstruct the measures of the Administration. Why these subjects have gone hand in hand, I leave gentlemen who are in the secret to explain. It ought not to be forgotten that on a proposition to repeal the embargo, at a time when its effects were severely felt both in Great Britain and her colonies, the gentleman from Massachusetts told us that the people of New England were prepared for insurrection and revolt, unless that measure of resistance to the aggressing belligerents was relinquished. And contemporaneously with these opinions, uttered on the floor of the House of Representatives, the British Minister, resident in the United States, made a confidential communication to his Government, in which a dissolution of the Union was deemed a probable event, should the commercial embarrassments of this country continue. From whom that Minister received his information, no gentleman acquainted with the history of that transaction can doubt. He who deliberately wields the "mischief-meditating" hand of civil commotion, will seldom hesitate as to the means which he employs to accomplish a favorite object. The mind, which once resolves on political parricide, can never be restored to a sense of moral virtue and integrity. And wretched indeed would be the fate of this country, were its destinies committed to those who openly avow that intention. The notorious conspiracy of Aaron Burr had for its basis the detestable project of dismembering the Union. And what, sir, was the fate of that infatuated individual? Exiled from his native country, in which he once held a distinguished place, not only in the administration of its Government, but also in the affections of the people; a beggar in Paris, and a fit instrument to be used by foreign Courts, to bring distress and ruin on the country, from which his crimes have expelled him. And yet that man did not dare to go the lengths which the gentleman from Massachusetts has been permitted to go within these walls. Did Aaron Burr, in all the ramifications of his treasonable projects, ever declare, to an assembly of citizens, that the States were free from their moral obligations? "And that as it will be the right of all, so it will be the duty of some to prepare definitely for a separation, peaceably if they can, violently if they must?" No, sir. Had such expressions been established, by the evidence on his trial, I hazard an opinion, that it would have produced a very different result. Perhaps, sir, instead of exile, he would have been consigned to a gibbet. For it cannot be concealed that the language of the gentleman from Massachusetts, if accompanied by an overt act, to carry the threat which it contains into execution, would amount to treason, according to its literal and technical definition in the Constitution and laws of the United States. The

fate of Aaron Burr ought to be a salutary warning against treasonable machinations—and if others, having the same views, do not share a similar fate, it will not be because they do not deserve it. Sir, the gentleman from Massachusetts, unfortunately for himself, has referred to the opinions of the present Minister in Russia. Comparisons are indeed odious—but on this occasion the gentleman has invited the contrast. In the memorable discussion on the Louisiana treaty, Mr. Adams said, "I consider the object as of the highest advantage to us; and the gentleman from Kentucky himself,\* who has displayed with so much eloquence the immense importance to this Union of the possession of the ceded country, cannot carry his ideas on that subject further than I do." And on a subsequent occasion, when called upon to decide the delicate question whether a member of the Senate of the United States should be expelled from that body for treason and misdemeanor, with which he was charged, Mr. Adams, in his able report to the Senate on that subject, uses the following strong and perspicuous language: "If the ingenuity of a demon were tasked to weave into one composition all the great moral and political evils which could be inflicted on the people of these States, it would produce nothing more than a texture of war, dismemberment, and despotism." These are the sentiments and feelings of that distinguished citizen who is now our Minister at the Court of St. Petersburg. They breathe the spirit of an American, who "cherishes the Constitution under which we are assembled, as the chief stay of his hope; as the light which is destined to gladden his own day by the prospect it sheds over his children."

Let us examine whether the gentleman from Massachusetts falls "not behind him in such sentiments." The inhabitants of the country which our Minister in Russia declared to be of such immense importance to this Union are about to be admitted to a participation of those rights which belong to every American citizen, and the country itself incorporated into the United States. Compare, I beseech you, sir, the language of the gentleman from Massachusetts, with that used by the Russian Minister. If this bill passes, (says the gentleman,) it will justify a revolution in this country—the Union will be virtually dissolved—civil war will become sanctified as a matter of right in each of the States, if they are not permitted to separate peaceably—political jealousy is inculcated between the Eastern and Western States. Every circumstance which is calculated in the remotest degree to excite discord and divisions, is studiously adverted to. The inhabitants of Louisiana are represented as wild and uncivilized in the woods, and dependent on the Eastern States for clothes to cover their nakedness—they are called at one time the wild men of Missouri, and at another the Anglo-Hispano-Gallo-Americans, who bask on the sand in the mouth of Mississippi; and, to cap the climax, we are alarmed with the apprehension, that six new States are to

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be formed in the West, which are to swallow up the power of the original partners to the Constitution, and control the nation. Are these the suggestions of a mind which "yielded to none in its attachments to the Constitution?" Sir, they are the ebullitions of political drunkenness, designed to produce internal "war, dismemberment, and despotism." I do not think the gentleman from Massachusetts has any reason to congratulate himself on the reference which he made to the opinions of the Russian Minister. On the one hand, we discern nothing but patriotism and union, and on the other, political jealousy, revolution, disunion, and the inseparable associate of these, despotism. But, Mr. Speaker, the people of the Eastern States will never give their assent to a dissolution of the Union. They are bound to the Western country by the inseparable ties of nature and of interest. The hardy and adventurous sons of New England will, in a short time, compose a large proportion of the population on the waters of the Mississippi, and I undertake to assure the gentleman from Massachusetts, that they will never return to "break into his house, or the houses of his friends, to filch their children's clothes in order to cover their nakedness." In that new and fertile region, the hand of industry is rewarded with a rich return of the comforts of life, which the liberality of its inhabitants distributes with benevolence and hospitality. Besides these natural bonds, which are every day increasing between the Eastern and Western portions of the United States, there is a reciprocal advantage in the intercourse which is preserved between them. The Western country is peculiarly adapted to the pursuits of agriculture, and the river Mississippi is the great highway through which their bulky articles are conveyed to a suitable and profitable market.

The Eastern States have long been and will long continue to be the carriers of these surplus products, to the seaport cities of the United States, to the West Indies and to Europe. Is it not then the interest of those who are engaged in the carrying trade to give encouragement to agriculture? There are mutual benefits in this interchange of labor which tend to promote the welfare of each section of the Union. No collision of interest can ever exist between the growers of hemp, flour, cotton, tobacco, and sugar, and the carrier who finds employment in their transportation to the countries in which they are consumed. If any advantage could be derived from a separation of these States it would be found to preponderate in favor of the Western division. We should at once become possessed of the public lands, which are said to be a fund on which the nation may rely for revenue to an incalculable amount. These lands have been acquired at the national expense, and it would therefore be unreasonable and unjust to confer them wholly on the Western States. But if the deleterious consequences which have been predicted by the gentleman from Massachusetts should be realized, such will be the inevitable effect in relation to the territory belonging to the United States.

Surely, there is patriotism enough even in the city of Boston to counteract the deteriorating principles of that gentleman. Let us adhere to the maxims of wisdom, and by a union of sentiment and action convince the nations of Europe that we are too powerful to be conquered, and too happy to be seduced from the allegiance we owe to the Government of our choice.

[During the course of his speech Mr. POINDEXTER was twice successively called to order by Mr. PEARSON and Mr. SHEFFEY; but both calls to order being withdrawn before any decision on them by the Speaker, they are not here noticed.]

Mr. GOLD—Mr. Speaker, hitherto, during the discussion of the interesting question before the House, I have remained silent. I shall now, sir, in my turn, ask the indulgence of the House for a few minutes.

On the great Constitutional question, I will not, sir, follow the honorable delegate from the Mississippi Territory (Mr. POINDEXTER,) who has just sat down, through all the details of his argument; for he laid down, at the very threshold, a position which never can be sustained, be the issue of this bill what it may. Under the provision in the Constitution declaring treaties the supreme law of the land, the gentleman confidently insists, that the treaty-making power is free from all the restrictions of the Constitution; that the Constitution sets up no land-marks; affords no limitation to this power. Hence, sir, the treaty of purchase of Louisiana having stipulated for the admission of that Territory into the Union, no provision of the Constitution can arrest the bill before the House; it must take effect, be the consequences what they may. The principle, sir, thus assumed, would subvert the very foundation of the Constitution; it violates first principles, and, if it shall prevail, will, like Pharaoh's lean kine, devour the whole fruits of the Constitution. Against this principle of construction, sir, I beg leave to enter my most solemn protest.

I turn, sir, to the real question raised by the worthy gentleman, who, as chairman of the committee, reported the bill.

Does the provision in the Constitution, that "new States may be admitted into the Union" give the power of admitting foreign territory, territory without the limits of the United States at the adoption of the Constitution? Now, sir, if those terms of the Constitution could not be fairly and fully satisfied without extending them to foreign territory, then, indeed, would the argument in favor of the bill be strong; it would be conclusive. But if this provision can be satisfied by its operation upon internal territory—territory then actually within the Union, which must have been in the contemplation of the framers of the Constitution—then does the argument wholly fail and all inference from the above terms fall to the ground. Need I, sir, point the House to the Western territory then within the Union, a fit and proper subject for this provision in the Constitution to operate upon; which must have been in actual contemplation at the adoption of the Constitution; out of which one or more States

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have actually been formed and admitted into the Union under this very provision.

Will it be said, sir, that the Constitution applies equally to territory within and without the Union; that there is no difference in the application? If internal and external territory be subject to the same consideration; if the operation, on being admitted into the Union, be the same as to the interests of the old United States, and the great principles of the Federal compact; then, sir, would the construction contended for receive some support from its being reasonable in relation to the subject-matter. But, sir, it never can be pretended, that it is indifferent to the political interests of the old States, forming the Constitution, to the principle of association, whether this Empire should be bounded by its existing limits or by the shores of the Pacific ocean. Whether it should be a Commonwealth, of reasonable limits, adapted to the lax rule of a popular Constitution, or a Government of acquisition and conquest, whose ambition knows no limits, and in whose extension the original States would be lost.

The operation of acquisition and extension of empire is the same in this as in other States. What was it in Rome? When that Republic became settled and in the possession of great glory, it was confined to Italy; ambition and the spirit of conquest greatly extended the Empire, particularly to the East. What followed? The seat of Government is removed to Byzantium; a division into the Eastern and Western Empire ensued; and Italy, the original seat and nursery of the State, was lost. How many States will be brought into existence by the principle of this bill, between the Mississippi and the Pacific ocean, cannot now be foreseen; they may equal the States on the east of that river. It is, sir, against a principle leading to such consequences, that each and every of the original States may say, "*non in hæc fœdera veni.*"

But, sir, aside from the Constitutional question, no sufficient reason is assigned for so precipitately admitting the Orleans Territory into the Union.

If the act of the second of March, 1805, is observed, if, on the inhabitants amounting to 60,000, and the same found on actual enumeration, the Territory is admitted into the Union, public faith is satisfied and full justice done. Why then, sir, before a return of the census, upon loose conjectural estimates, by no means justifying the belief of the requisite number of 60,000, is this important measure precipitated? Why is the appointed period anticipated? The only color of reason that has been given is, that Congress can now impose terms—terms for the security of public and private property—and the bill secures to the United States the public land belonging to them; exempts it from taxation by the new State, and provides, that the property of non-residents shall not be taxed higher than that of residents. This suggestion is unfounded and fallacious. The act of the 2d of March, 1805, which gives the pledge for a State relied on, expressly provides that the constitution to be formed for

that Territory shall not be inconsistent with the Territorial ordinance of the 13th of July, 1787. On recurring to that ordinance, it will be found to contain every essential provision of the bill before the House. It excludes the new State's interfering with the primary disposal of the soil by the United States; exempts the public lands from taxation, and forbids the taxing of non-residents higher than residents. Thus, sir, the only reason assigned for anticipating the period stipulated by the act of 1805 falls to the ground. By adhering to the provisions of that act, and the ordinance, in requiring an actual return of the number of sixty thousand, you preserve to yourself a principle on which you may resist future applications for States, which will be urged in rapid succession upon you. You have already on your table the memorial of the Mississippi Territory for a State, anxious to rush into the Union before a return of the census. Upper Louisiana will succeed, and Indiana, Illinois, and Michigan, follow in rapid succession. New States will emerge to the astonished eye in the western horizon, like the figures in a magic lantern.

Are there not, sir, cogent reasons against a precipitate admission of this Territory into the Union? Can it escape gentlemen, that the inhabitants were born under a different government, different constitution and laws; they are almost strangers to the tongue in which the proceedings of this Government are to be recorded; with our Constitution, laws, and principles of jurisprudence, they have little more acquaintance than other nations. The reasons against anticipating the regular period for their admission into the Union thicken upon the mind in revolving the subject.

It only remains, sir, for me to express my deep regret at the animadversions and reflections so liberally bestowed by the honorable delegate (Mr. POINDEXTER) upon the gentleman from Massachusetts, (Mr. QUINCY,) who preceded him in the debate.

In the Parliament of Great Britain (a country so often stigmatized on this floor) will be found examples of free debate, fully equal in ardency, vehemence, and invective, to all that fell from the eloquent member from Massachusetts.

We have there witnessed the old Earl Chatham, at a crisis all-important to the British Empire, (the commencement of the great contest for American rights,) sounding the alarm at the measures of administration; pronouncing the war on America founded in wrong and injustice, and arraigning the known favorite measures of the King in a strain of angry and terrible invective that can scarce find its parallel in the English language. Shall this House, in all the fullness of freedom secured by the Constitution, be afraid to follow such examples? It is here, sir, on this floor, that free debate is consecrated—here different opinions are to mingle in conflict. To repress this freedom would touch the vital principles of the Constitution.

While the free and ardent observations of the gentleman from Massachusetts were pointed to

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the consequences of the bill, if passed into a law, I was sorry to observe in the honorable delegate a course so widely different—a studied adherence to observations of a personal nature which could throw no light on the subject before us, and but ill become the dignity of the House.

Mr. BRIS said if he were so disposed he should be perfectly unable to follow gentlemen in their remarks, having been continually engaged, since the adjournment yesterday, in the duties assigned him by the House. I should not now have risen, said Mr. B., if the gentleman from Mississippi Territory had taken the ground on which I mean to justify my vote. In my opinion, sir, the treaty-making power has very little to do with the subject. We derive our power from the third section of the 4th article of the Constitution; and before I read it I beg leave to state a general rule of construction, which in my apprehension should be universally adopted, and which I apply to this section, viz: whenever a general power is granted, and certain limitations are expressed, the expression of those excludes all other limitation or derivation by implication. "New States may be admitted into the Union." Here is a general power granted, and, in my humble apprehension, if there were no limitation, it would give ample authority to admit States into the Union from territories not belonging to the United States at the time of the adoption of the Constitution. But, in addition to the words I have quoted, are the following: "But no new State shall be formed 'or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, 'without the consent of the Legislatures of the States concerned as well as of the Congress." Here is a general power with two limitations. Now, according to my rule, the expression of these two excludes all idea of any other, and I thence fairly infer the authority of Congress to pass the bill before you. I presume gentlemen will not deny the correctness of the rule. If it is not to be applied in this particular case, some gentleman who thinks so will show why it should not.

It will be recollected, sir, said Mr. B., that I was among the number yesterday who voted against the decision of the Chair on a point of order. I conceived that the gentleman from Massachusetts or any other member had a right, pending a measure, to express his views of the consequences to result from it; but whether the gentleman's conclusions were correct is a distinct question, on which I will offer no argument. But I will close the few remarks I have to offer to the House by reading part of an address to the people of this nation by the first character it has given birth to.

Mr. B. then read, as a part of his speech, the following extract from WASHINGTON's Farewell Address:

"The unity of Government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquillity at home,

your peace abroad; of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts."

Mr. WRIGHT.—Sir, this bill is not, in my judgment, a violation of the Constitution, nor have I a fear that it is fraught with those direful consequences with which the gentleman from Massachusetts (Mr. QUINCY) threatens us. It will neither justify a dissolution of the Union, nor lead any citizen attached to it, even amicably, much less forcibly, to the contemplation of it, notwithstanding the predictions of that gentleman. That we are authorized to erect new States, I will prove both by theory and practice, and for that purpose I will first invite your attention to the articles of Confederation. By one section it is *expressly* declared that Canada may be permitted to enjoy all the benefits of the Confederation on the same terms with the other States of the Union. The thirteen States under this Confederation conducted themselves safely through the war; but finding, in 1787, that their requisitions had not been duly respected, and that New York had rejected some necessary commercial regulations, whereby their fiscal affairs were deranged, Congress, by a resolution, resolved that a convention of States should be held for the express purpose of amending the articles of Confederation. Under this resolution the Convention met, and proceeded to form the present Constitution. Thus it will appear that they were to form the new Constitution not *ex pari materia*, but out of the very materials of the Confederation.

As a conclusive evidence, you will find a number of the articles in each instrument literally or substantially the same, and thereby be justified in giving a construction of the letter of the Constitution, so as to respect the spirit of the Confederation. By the third section of 4th article of the Constitution, "New States may be admitted by Congress into the Union;" and by the next member of the same section, "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States"—hence I can have no doubt that Congress have the power to admit new States into the Union,

that power being expressly given. It is however contended, that that power is limited to the admission only of those States that may be established within the limits of the United States, as demarcated by the Treaty of Peace. And the preamble to the Constitution is relied on to establish that doctrine. "We, the people of the United States, &c. do establish this Constitution for the United States of America." If this preamble is so imperious as to limit the positive provisions of the Constitution, it will certainly limit itself to the States that formed the Constitution—the negative of which has been determined. To prove which, here let me call your attention to the fact, that Vermont was not a member of the Confederation, nor was she a member of the Convention that formed the Constitution; she therefore was not one of the United States—was foreign as to them, and as distinctly governed as any other foreign Power; she in 1791 was admitted into the Union, and the laws of the United States extended to her. She was not one of the old States, and was correctly admitted under the power to admit new States. Vermont was so repulsive to a confederacy with the United States, as not to be mentioned in the Articles of Confederation. Can it be for a moment doubted that Canada, expressly mentioned, might be now received as a new State, by becoming independent, or by purchase, when Vermont has been admitted, who was not mentioned in the Confederation? Can there be an opinion that the framers of the Constitution intended Canada should be excluded from the benefits of the Constitution, when before invited into it? When, by the express letter of the instrument, "new States may be admitted," and when Vermont, not mentioned in the Confederation, has been admitted? Such a conclusion can never be the rational result of such premises. But it is objected, that, as this Territory was obtained by treaty, and after the formation of the Constitution, it cannot be admitted into the Union as a State.

I have shown that new States may be admitted, that Vermont has been admitted, and that Canada was expressly entitled under the Confederation, and by the terms of the Constitution may be admitted as a new State. "Congress may admit new States into the Union, and make all needful rules and regulations with respect to the territory or other property of the United States." This is certainly a territory, the property of the United States, and Congress as certainly, may, if needful, that is, expedient, admit it into the Union. We are told, I presume to retard this measure, that the limits are in dispute, and that, if made a State, they cannot afterwards be settled by the United States. That this is not the case, I will prove by theory and by practice. By the treaty-making power vested in the President and the Senate, they may treat on all subjects within the treaty-making power, with foreign nations, and where the limits of any foreign Power adjoining the territory of the United States are not ascertained to their mutual satisfaction, they certainly may settle them by a treaty

of limits. This is the practice and usage of all nations, and the United States by a treaty of limits with Great Britain, did settle the beginning of their northeastern limits, at the river St. Croix, whereby they gave up seven miles to Great Britain, which was taken from a State—hence I presume no difficulty can arise on the subject. Here let me remark that as the United States establish the territory into a State with all the right they have and no more, if it shall be found that the property belonged to a foreign Power, the grant of the United States of that to which they were not entitled could vest no title in the State, the grantee; nor can they complain, as that is the true construction of the grant. Sir, a strange reverse has attended the acquisition of Louisiana. At first New Orleans was so important to the United States that they could not do without it, and the navigation of the Mississippi depended upon its acquisition. A certain Senator of Pennsylvania (Mr. J. Ross) in the Senate was so devoted to its acquisition, *per fas aut per nefas*, that he volunteered his services to take it by force, with a view, I presume, of involving the United States in a war, as a diversion in favor of Great Britain; but that body repelled every idea of force, and from information that it might be purchased, authorized their Minister to purchase it; which was effected at less expense than it would have cost to have taken it, whereby the peace and blood of the nation were preserved. Then it all at once become of little value; the title was disputed, and the extent of the limits by which we were informed it was sold, were disputed by the Representatives of the American people. And now, after the treaty has been ratified, and by law confirmed, and the purchase money paid, our title is still slandered, and the extension of our limits, on this floor, disputed. However, I hope and trust this bill will pass, and agreeably to the letter and spirit of the treaty, this people will be received into the bosom of the American family. Their fidelity has been already tested by a devotion to the laws of the Union, when a portion of the American people were, by treason, endeavoring to disserve them from the Union.

Mr. KEY spoke half an hour against the bill, and Mr. MAÇON a few minutes in reply to him.

The question was then taken on the motion for indefinite postponement, and lost, as follows:

YEAS—Daniel Blaisdell, John C. Chamberlain, William Chamberlin, Martin Chittenden, William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Daniel Heister, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Joseph Lewis, jun., Robert Le Roy Livingston, Archibald McBryde, William Milnor, Joseph Pearson, Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Stanley, Jacob Swoope, Samuel Taggart, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson—28.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson,

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Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thos. Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, George Smith, John Smith, Richard Stanford, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright—78.

The main question was then taken that the said bill do pass, and resolved in the affirmative—yeas 77, nays 36, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jun., Wm. Anderson, Ezekiel Bacon, David Bard, Wm. T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, Wm. A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, Wm. McKinley, P. M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Richard Stanford, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Abijah Bigelow, Daniel Blaisdell, John C. Chamberlain, Wm. Chamberlin, Martin Chittenden, John Davenport, junior, William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Philip B. Key, Joseph Lewis, jr., Robert Le Roy Livingston, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, jr. Elisha R. Potter, Josiah Quincy, John Stanley, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

The following is the bill as finally passed:

A Bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union,

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on an equal footing with the original States; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the inhabitants of the Territory of Orleans be, and they are hereby, authorized to form for themselves a constitution and State government, and assume such name as it may deem proper, with the provisions, and upon the conditions hereinafter mentioned.

**SEC. 2.** *And be it further enacted,* That said State shall be composed of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the thirtieth day of April, one thousand eight hundred and three, between the United States and France, now contained within the limits of the Territory of Orleans, except that part lying east of the river Iberville and a line to be drawn along the middle of the lakes Maurepas and Pontchartrain to the ocean.

**SEC. 3.** *And be it further enacted,* That all free male citizens of the United States, who shall have arrived to the age of twenty-one years, and resided within the said Territory at least one year previous to the day of election, and shall have paid a territorial, county, district, or parish tax; and all persons having in other respects the legal qualifications to vote for representatives in the General Assembly, or the Territory thereof, be, and they are hereby authorized to choose representatives to form a convention; who shall be apportioned amongst the several counties, districts, and parishes, within the said Territory of Orleans, in such manner as the Legislature of the said Territory shall by law direct. The number of representatives shall not exceed sixty; and the elections for the representatives aforesaid shall take place on the third Monday of September next, and shall be conducted in the same manner as is now provided by the laws of the said Territory for electing members for the House of Representatives.

**SEC. 4.** *And be it further enacted,* That the members of the convention, when duly elected, be, and they are hereby authorized to meet at the city of New Orleans, on the first Monday of November next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be expedient or not, at that time, to form a constitution and State government, for the people within the said Territory, and if it be determined to be expedient, then the convention shall in like manner declare, in behalf of the people of the said Territory, that it adopts the Constitution of the United States; whereupon the said convention shall be, and hereby is authorized to form a constitution and State government, for the people of the said Territory: *Provided,* The constitution to be formed, in virtue of the authority herein given, shall be republican, and consistent with the Constitution of the United States; that it shall contain the fundamental principles of civil and religious liberty; that it shall secure to the citizen the trial by jury in all criminal cases, and the privilege of the writ of habeas corpus, conformably to the provisions of the Constitution of the United States; and that after the admission of the said Territory of Orleans as a State into the Union, the laws which such State may pass, shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and the judicial and legislative written proceed-

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ings of the United States are now published and conducted: *And provided also*, That the said convention shall provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare, that they forever disclaim all right or title to the waste or unappropriated lands, lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land, sold by Congress, shall be and remain exempt from any tax, laid by the order or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof; and that the lands belonging to persons residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands the property of the United States. And that the river Mississippi and the navigable rivers and waters leading into the same, or into the Gulf of Mexico, shall be common highways and for ever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, impost, or duty therefor.

SEC. 5. *And be it further enacted*, That in case the convention shall declare its assent, in behalf of the people of the said Territory, to the adoption of the Constitution of the United States, and shall form a constitution and State government for the people of the said Territory of Orleans, the said convention, as soon thereafter as may be, is hereby required to cause to be transmitted to Congress the instrument by which its assent to the Constitution of the United States is thus given and declared, and also a true and attested copy of such constitution or frame of State government, as shall be formed and provided by said convention, and if the same shall not be disapproved by Congress, the said State shall be admitted into the Union, upon the same footing with the original States.

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WEDNESDAY, JANUARY 16.

The bill to change the name of Lewis Grant, to that of Lewis Grant Davidson, was read twice, and ordered to be engrossed, and read the third time to-morrow.

Mr. MITCHELL presented a petition of the President and Directors of the Merchants' Bank in the city of New York, praying the renewal of the charter of the United States' Bank; which was read, and referred to the Committee of the Whole on the bill for the renewal of the said charter.

The bill from the Senate, entitled "An act to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown in the Territory of Michigan," was read twice, and committed to the Committee on the Public Lands.

The bill sent from the Senate, entitled "An act to incorporate the Farmers' Bank of Alexandria," was read twice, and committed to the Committee of the Whole on the bill concerning the Bank of Alexandria.

*Resolved*, That the Secretary of the Treasury be directed to lay before this House a list of the directors of the Bank of the United States, and

of the several branches; and a statement of the stock held by foreigners, and in what countries, and of the stock held by citizens, and in what States and Territories; and, also, the amount of specie, according to the last returns, in the vaults of the bank, distinguishing the part which belongs to the bank, the portion belonging to individuals, and to the United States.

The bill sent from the Senate, entitled "An act to incorporate the Bank of Washington," was read twice, and committed to the Committee of the Whole last mentioned.

The bill sent from the Senate, entitled "An act to incorporate the Bank of Potomac," was read twice, and committed to the Committee of the Whole last mentioned.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Ebenezer Rollins;" in which bill they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill from the Senate for the relief of the heirs of Major General Anthony Wayne. [The bill authorizes a resettlement of accounts of said deceased, supposed to have been too hastily adjusted.] Mr. MILNOR stated the object of the bill with great precision, minutely detailing many sums of money due General Wayne at the time of his decease, with which his heirs had not been credited in the settlement of his accounts. Mr. WRIGHT also spoke in favor of the bill. The bill was ordered to a third reading, and was read a third time and passed without opposition.

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The House resolved itself into a Committee of the Whole on the bill to renew the charter of the Bank of the United States.

Mr. BURWELL moved to strike out the first section.

I have made this motion, sir, said Mr. B., because it allows the greatest latitude of discussion upon the important points which are preliminary to the examination of the details. It tries the principle of the bill, and may save much tedious and useless labor. Should a majority decide in favor of the Bank of the United States, as an honest man, I will aid in forming a system best adapted to the state of the country, and most subservient to the purposes of such an institution. The gentleman from Connecticut (Mr. MOSLEY) has done justice to my conduct, and the fairness with which the subject has been treated. I have been anxious to present the question fairly, not from any doubt or indecision as to the course I should pursue, but from its magnitude, and the sensibility it has excited. It will be recollected by the Committee, when the gentleman from Pennsylvania presented the memorial upon which the Secretary of the Treasury founded his report, on that, as on all subsequent occasions, my opposition was manifested; and I will add that the particular attention which my duty has compelled me to bestow on the bank, has confirmed more strongly former impressions.

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The remarks I shall make are intended to show that Congress possesses no power to incorporate a bank; to show its effect on the Government, and to satisfy the Committee that the exercise of the power, even if possessed, is inexpedient. While, sir, I feel the most ardent desire to consult the convenience of the Government and promote the prosperity of the community in general, I have not lost sight of the limits within which I am restrained by the Constitution of the United States and considerations of sound policy. It is my most deliberate conviction that the Constitution of the country gives no authority to Congress to incorporate a bank and endow the stockholders with chartered immunities; and even if its dissolution should produce ruin to the merchants, and, what is of equal importance, embarrassment to the Government, they would not be paramount to the sacred obligation of supporting the Constitution; though I am persuaded the dreadful evils which have been predicted from the annihilation of the bank will soon vanish, and that no material shock will be produced by that cause. The construction which the Constitution has received by the various persons who have at different times administered it, has been rigid or liberal according to the confidence in the General or State governments. The unqualified extent given to its general powers, and the inclusion of incidental powers, as flowing from and belonging to particular enumerated grants, have constituted the essential points of difference among those who have divided upon the principles of the Constitution. This has been the case not only in the exercise of authority where the right was questionable, but in cases where the right was undeniable, tending by its operation to increase the weight of the General Government. In giving to the Constitution that construction which sound policy requires, and a just regard to the harmony of the States and the perpetuation of their Union dictates, I cannot find any part of it authorizing the exercise of a power which, from its nature, is obnoxious, its tendency alarming; and its influence in the hands of those who manage its concerns irresistible. The power to establish a bank cannot be deduced from the general phrases "to provide for the common defence and general welfare," because they merely announce the object for which the General Government was instituted. The only means by which this object is to be attained are specifically enumerated in the Constitution, and if they are not ample, it is a defect which Congress are not competent to supply. I think this inference the stronger, inasmuch as those means were granted to us by those who had acted under the Confederation and experienced its defects, and knew precisely to what extent power was requisite to provide for the common defence and general welfare. In relation to this particular subject, the proceedings of the Convention itself furnish the plainest evidence, by rejecting the proposition to vest in Congress the right to grant incorporations. I readily admit the motive of deliberative bodies cannot always be known. Various con-

siderations might have operated. They might have supposed the power already vested. But, it is incumbent on those who can place faith in an interpretation so repugnant to the cautious and guarded phraseology of the instrument to demonstrate it. If the right to incorporate exists, it is a general grant of power, equally applicable to all the objects of incorporation, and cannot be assumed as a means to carry into effect any particular grant of authority. To my mind, it is much more natural to suppose a power to create monopolies had been surrendered, to quiet the fears of those who saw in the Constitution the germ which would sooner or later palsy the vitals of the State authority. If the general phrases are not explained in the manner just mentioned, and powers so extensive and important are derived from them, it would be ridiculous to consider the jurisdiction of Congress restricted; they would confer equal authority to establish monopolies in all the various branches of individual industry and commercial enterprise. Sir, I will conclude this part of the subject by reminding you how essential it is, when we are giving an interpretation to the Constitution, to which the States are parties, to assume only what clearly belongs to us. Moderation will inspire confidence, selfishness will excite disgust and suspicion.

The parts of the Constitution which bear any analogy to this subject, are

1st. Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare, &c.

2d. To borrow money on the credit of the United States.

3d. To regulate commerce with foreign nations, and among the several States, and with Indian tribes. And

4th. To make all laws which shall be necessary and proper to carry the foregoing powers, and all other powers vested by the Constitution in the General Government, into effect.

It will not be denied that, if the establishment of a bank comes within the meaning of the power to lay and collect taxes, to pay the debts of the United States, and to regulate commerce, or is necessary and proper to carry the foregoing powers into effect, it would be a fair subject for legislation by Congress. But can any one pretend that a bank would be a mode contemplated by the Constitution to lay and collect taxes on the people for the purpose of raising revenue? Would it comport with that wise principle of uniformity, and those guarded restrictions against unequal burdens on the people, which constitute the most valuable safeguard to the citizen? To understand these terms we must give them a meaning which has been affixed by their usual import. When we speak of the power to lay taxes, we understand by it a demand of money from the community, regulated by fixed and equitable principles, indiscriminate as to persons, and the species of property taxed. To suppose that every law which imposed burdens or brought money into

the Treasury was Constitutional, would destroy our equal system of government, and substitute a capricious despotism. It would revive the exploded doctrine of free gifts, benevolences, and that shameful train of extortions practised by the old Governments of Europe. Does it fall within the power to pay the debts of the United States? This clause relates entirely to the application of the funds after they have been accumulated; it is in conformity with that article which pledges the public faith for debts which had been contracted, as well as those which might be created in pursuance of the authority to borrow money upon the faith of the United States. If the power to incorporate a bank grew out of the obligation to pay the debts of the United States, its charter should be so worded as to cease whenever they were extinguished; and it would be no longer for Congress to fix a definite period for its expiration. If the right of incorporation was ever meant to be given, it would most naturally follow from the regulation of commerce; yet, no one has contended Congress could create insurance companies within the States. Those who contend the bank is Constitutional, consider it as necessary and proper in collecting the revenue. That it may be an useful instrument, I do not deny. It forms depositories convenient to the Government; but, you should recollect depositories equally safe and convenient, can be procured without being purchased at the expense of exorbitant and invidious privileges to a particular class in the community. I apprehend the Constitution means something extremely different when it empowers the General Government to collect taxes; it relates exclusively to the authority thus given to Congress of employing compulsory process in coercing the payment of taxes; it enables Congress to create, within the jurisdiction of the States, officers of the revenue, and through them, to exercise over the property of the citizens a concurrent jurisdiction, from which they otherwise would be precluded, and from which they had been precluded before the adoption of the Constitution; it enables them to impose penalties and forfeitures, and to inflict punishment for resistance to their authority. But, sir, admit for a moment the bank may be formed to collect the revenue, ought it not be exclusively used for that object? Whence the power to make it an instrument of commerce? Why invest it with a capital immense in amount, and sovereign in its control over the external and internal commerce of the country? Sir, I must again call your attention to the limited nature of our Government; we must administer it as we find it, and not as we think it ought to be. Under this view of the subject, so long as I understand the right to "lay taxes" to consist in drawing supplies from the people for public purposes, and not to tax one portion of the community for the benefit of another, and "to collect them," the right to enforce payment, I cannot construe them to authorize the establishment of a bank. Sir, a bank has been improperly considered a means of executing some power exclusively given to Con-

gress. The nature of incorporations is so clearly a distinct class of political power, that, before they can be converted into means incidental to an object without the jurisdiction of the General Government, they must be shown to be absolutely necessary. Permit me to ask, how has it been ascertained that a bank is necessary to the operations of the Government? Has the experiment been tried? Upon a question involving a breach of the Constitution, it would be safer to be guided by experience than conjecture.

Sir, I am well aware that I can add nothing new upon the Constitutional points. The subject was more thoroughly examined in 1791, and more ably elucidated than any other since the adoption of the Government. The celebrated speech of Mr. MADISON, to which I ascribe my conviction, has been recently presented to us in the newspapers, and gentlemen must be familiar with it. I cannot give additional weight to the arguments, but I thought it proper to call the attention of the Committee to that part of the subject by the remarks I have made.

I said, sir, it must be shown that the bank is necessary to the operations of the Government—without its aid our fiscal concerns cannot be managed. So far from subscribing to the necessity of the bank, I believe the revenue would be equally safe in the State banks, and could be distributed with inconsiderable difficulty. The revenue received in most of the States is nearly equal to the expenditure within them, and when a deficiency occurred in any one, it could be supplied by arrangements with the different banks, by transportation, or inland bills of exchange, in the manner that the public engagements are fulfilled abroad. I will venture to assert the Secretary of the Treasury will find no difficulty in contracting with individuals and corporate institutions, upon the most ample security, to transfer the public revenue upon terms equally advantageous to the United States. Among the several States commercial intercourse is great, and daily increasing; the constant traffic which the different portions of the country maintain with one another, will give facility to the operations of the Government, and obviate the obstacles which are anticipated; the very commerce which enables the Treasury to remit with ease immense sums to every part of Europe is the result of this interchange among the States, and insures equal facility at home. Where, then, is the necessity for this bank? The accommodation of the bank to the Government in times of emergency, and the use of its resources to support public credit, have been urged as motives for its establishment; how far such considerations weaken Constitutional objections, it is needless to state. If, sir, the bank becomes a source of supply to the Government to an adequate extent, it ceases to be one to the merchants. It therefore, cannot answer in both capacities. The same necessity which throws the Government upon the charity of the banks renders it incapable of discharging the obligation, and while the funds of the institution are locked up in the Government,



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its commercial functions must cease. The relief which sudden and temporary embarrassments require, can, at all times, be administered by the State banks, and, therefore, supersedes the necessity of aid from this bank. Whenever, by disasters, the ordinary sources of supply are exhausted, or the unavoidable objects of expenditure exceed the revenue, a more copious and permanent aliment will be found in the wealth and capital of the citizens than by loans from banks. Instead of diverting the active and productive capital from useful channels, the sluggish and inert mass will be drawn forth in its aid, to support public credit and cherish private enterprise. But, sir, is it prudent to rely upon an institution that may refuse you assistance? What will be the influence of such an institution on the Government, and the country at large? It cannot escape your recollection that the establishment of the Bank of the United States was the origin of a system which assumed as its basis the enlargement of the national jurisdiction. Whether the principles of expediency to which it owes its birth be regarded, or the overweening influence it established over the moneyed institutions and merchants of the States, the charge, to say the least, is plausible. The close and intimate connexion between the Government and bank—the dependence of the former for loans, and the latter for public deposits, have given the Executive branch its full share of influence and odium—shows incontestably it was created to augment the power of the General Government, and the Executive in particular. Yes, sir, it was the commencement of those political animosities which have poisoned the sources of social intercourse; it was the origin of that doctrine of constructive power which abrogates the Constitution and nullifies the restrictions imposed upon Congress. So long as it exists, the body politic will experience the agitations and convulsive throes of well grounded jealousy in the States.

Sir, in the administration of this Government two things alone are necessary to insure its durability. You must first avoid every measure which will produce uneasiness among the States, or, second, that will extend the jurisdiction of the United States Government to subjects purely local. I do not mean that the rightful authority of Congress is to be abandoned for fear of giving offence, but, whenever called on to take a step which will produce uneasiness, you should be perfectly satisfied the letter and spirit of the Constitution bear you out. Do not gentlemen perceive the tendency of this measure to involve us with the States upon delicate points? Has not the United States' Bank produced serious alarm? Will not the alarm be increased by its continuance at this time? Yes, sir, some of the States have already taxed this institution, others have waited under the expectation we shall render a collision unnecessary. Suppose the charter renewed, and the stockholders should be taxed in such a manner as to destroy, virtually, the privileges you have guaranteed to them? Are you to leave them unprotected, or will you draw the

sword in their behalf? While you have time, avoid a situation not less perilous than the most serious foreign war. Since the establishment of the bank, the States have created banks—their people have accumulated capital, and they will not tamely witness the perpetuation of an institution whose strength can at any moment overthrow whatever State bank they may mark for destruction. However paradoxical it may appear, I consider the General Government strengthened by narrowing its jurisdiction; it will produce disunion whenever they interfere with local concerns. The habits, local interests, and passions of this country vary, and no one is a competent judge of what will suit the feelings of the State out of which he lives. But, sir, there are general principles in which our feelings and interests are identified; there are subjects upon which we may safely act, and trust to the co-operation of every man and State in the Union. Does the bank affect the people locally? The answer is obvious: it not only undertakes to fix the amount of capital, but interferes with the rights of property most essentially—it may change the fundamental principles of State law as to the liability of property for debts, and the mode of recovering them. Let me caution you against the renewal of the charter; it is pregnant with the most baneful consequences to the tranquillity of the country. Is it not better to sacrifice this golden calf upon the altar of concord, restore confidence and harmony among individuals as well as States, and to reunite the lovers of the Constitution?

In the report of the Secretary of the Treasury, the convenience of obtaining loans from the bank is mentioned as an inducement to establish a National Bank. To me the abuse of this convenience is more dreaded than any other evil which will follow from the measure. Where have you seen a National Bank, connected with the Government, which has not ultimately ruined the circulating medium of the nation? It is a notorious fact that money has depreciated seriously, from the unlimited circulation of paper, and if the Government should be compelled, by necessity, to use the funds of the bank, they must permit the increased circulation of its paper, although its money capital remains stationary. In this situation the Government must tolerate an operation which will increase the evil of which we complain. The example of England is a salutary monition to us, and we ought to profit from it. In that country there was a time when the stability of the bank was a national phrase, "As good as the Bank of England." How is it now? The funds of the bank have been borrowed by the Government—its paper circulation increased, and Parliament has been compelled to make it a tender for the payment of all contracts. Who, sir, can estimate the complicated mischiefs of a depreciated paper currency, without specie for its redemption? Should we be involved in war, or our property seized abroad, nothing can prevent universal bankruptcy—one wide-spread ruin will pervade the Continent. At this time the country is inundated with paper bottomed upon the whole

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floating and real property of the community : should an alarm exist, can these funds be converted into money to redeem its credit? Certainly not. Will it not be prudent to diminish the extent of this evil by putting down this bank which is the fountain from which the whole system flows? It is of little importance, as it regards the internal trade of a country, what constitutes the representation of property. Paper, iron, or anything else, which passes current, will answer every purpose of barter and trade; but, in its commerce abroad, it is indispensable that the circulating medium should be equally valuable and readily acknowledged among all commercial nations; otherwise, all the operations of commerce, carried on with money, will be abandoned or prosecuted under disadvantages equal to the difference in the value of the currency at home and abroad. In countries actively engaged in business, this branch of trade is not only great in amount, but by far the most profitable. How unwise, therefore, not only to substitute for the precious metals paper currency, whose value is confined to the United States, but to augment the quantity until it depreciates even among ourselves.

I cannot sufficiently express my apprehension at a state of things which exposes us to irreparable injury whenever a foreign nation shall interrupt our commerce, or my regret at the daily ascendancy of this fatal policy. In my opinion, sir, the true corrective will be applied, if the Government, instead of receiving the paper of a particular bank in payment for the revenue, shall require specie as the only tender. Such an operation would secure to the country its due proportion of the precious metals, would restrain within rational and useful limits the circulation of paper, would insure stability to the moneyed institutions, save the people from the dreadful scene of bank swindling which is exhibited, and restore the equality of trade with foreign nations, which depends upon the fixed value of the circulating medium. I am far from intimating that banks are useless, when established with a due regard to the actual wants of the country. Measured by that standard, they form the chief resource of industry, lubricate the wheels of commerce, and accelerate their motion—but the Constitution has wisely intrusted this measure to the States; they are the most competent judges. If the Bank of the United States tended to restrain the multiplication of banks, and the ruinous emission of paper, I acknowledge it would be a powerful argument in its favor—it would go far to satisfy me of its expediency. But, instead of producing this effect, we have seen them, like mushrooms in a genial soil, spring up under its fostering protection; the Bank of the United States has an interest in the multiplication of similar institutions, because they all tend to secure it from danger, and enable it to increase the discounts to the greatest amount; before the United States' Bank can be affected all the other banks must be ruined, because the advantage of public deposits, and the great extent of capital, will afford the means

of averting the storm. What has been the fact upon this subject? Have not the most shameful systems of bank swindling been practised? The State of Massachusetts found it necessary either to suppress her banks, or limit their discounts. They found, upon examining the vaults of the banks, the whole of them did not contain specie equal to the paper issued by a single one. Yes, sir, instead of finding a sound body, they found a corpse rotten and decayed; the specie had fled and the public were left without the prospect of remuneration. Have you forgotten the Bank of Rhode Island? This bank had issued notes to the amount of \$800,000 upon a capital of \$451. Will gentlemen tell me the Bank of the United States has checked, or will keep down, in future, similar impositions? I am justified in considering this bank instrumental in depreciating the currency of the country, and banishing its substantial capital.

There is no branch of industry more materially injured by the artificial state of credit, and the depreciated currency of the country, than manufactures. The precarious condition of commerce has naturally turned the public attention to this subject; and we may hope the time is not distant when the United States will furnish the articles of substantial utility for themselves. The war in Europe, by deranging the operations of the manufacturer, and the taxes with which his industry has been burdened, have conspired to give a vigorous impulse to them here. But, sir, we shall probably witness their destruction by the rapid depreciation of paper, which raises the price of labor, and impedes the accomplishment of this most desirable object. The exchange of labor between the inhabitants of America and the Old World, has always been disadvantageous. We have not only paid full profits upon the capital and labor employed in the production of what is consumed, but we have paid the taxes which the prodigal Governments of Europe have laid upon them.

Upon this subject a strong appeal has been made to our feelings; it has been said the dissolution of the bank will produce the most serious pressure in the community, and will devote numbers to ruin. I am confident no man would be more gratified than myself, to afford relief to those who may suffer, if I was not precluded by Constitutional difficulties. While I admit the sufferings of individuals will be great, I am equally convinced the picture is highly colored and the facts exaggerated.

The time when the charter expires has been known to every person; the presumption against its renewal strong. How can you, therefore, believe the creditors of the bank have made no provision to meet the event? It is scarcely possible to conceive that funds have not been provided to extricate themselves. When I say the presumption against the renewal of the charter has been strong, I do not allude so much to the sentiment in this House, as to the solemn declaration of the President of its unconstitutionality—

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[Mr. MACON called Mr. BURWELL to order for using the name of the President in debate.]

Sir, the violation of order has been inadvertently committed; his name was not used to produce any effect here, because I really am unacquainted with his present opinions, except as I infer them from his Speech in 1791; I cannot suppose he would use one set of arguments then, and act upon another now.

Under such circumstances, it would be criminal in this House to yield Constitutional objections, and surrender important considerations of policy, to shelter those who have shut their eyes to the law. The Legislature cannot resist with too much firmness such an appeal; it is placing them at the mercy of a few, and sacrificing the general good to the clamors or follies of the im-provident.

It has been said that \$8,000,000 in specie will be required, from circulation, to meet the demands of the bank, and that the amount cannot be procured in the United States. I venture to assert, upon the statement furnished by the bank agents, the sum will not exceed \$2,500,000 over and above the specie in the vaults of the bank. After paying and settling with the community, the bank will owe to the stockholders \$10,400,000. If they retain the specie now in the vaults, amounting to \$5,000,000, the demand upon the community will be lessened to that extent; if it is paid out to meet the return of their notes in circulation, it passes into other banks, and will return to them; so that, in either case, it will constitute a fund to pay the stockholders, and reduce their demand to \$5,400,000; from this sum must be deducted \$500,000, the amount of real estate belonging to the corporation, \$2,750,000, loaned to the Government, and about \$300,000 in suit, leaving a balance not exceeding \$2,500,000. Will it be said that this sum cannot be raised in a country whose export of specie, for the last year, amounted to \$8,000,000? Will it be said that the system of banks has reduced us to this low ebb, and yet we are called upon to perpetuate the evil? From this view of the subject, it appears that the creditors of the bank will be compelled to raise \$7,500,000.

Can any gentlemen seriously believe that this sum will ruin the country? If, sir, we judge from the number of banks springing into existence in the different States, the conclusion is irresistible, that there is a redundancy of capital more than ample to accommodate all the debtors of the bank. Scarcely a single Legislature has separated without granting charters. You have this morning deposited in Committee of the Whole, the cemetery for the District, five banks, with an aggregate capital of three and a half millions. This thing must be downright cheat-ery, or there is a redundancy of capital. If it is fraudulent, the sooner the delusion is dissipated the better.

I shall, for the present, admit these applications are evidences of capital, and contend they will operate effectually to relieve the community. But, sir, it will be found from the state-

ment of the bank agents, the directors have contracted debts nearly or quite equal to the amount due them, and that they will find difficulty in meeting the claims against them. These claims will naturally be transferred to those who are indebted, or deposited in State banks, where they will constitute funds upon which accommodation can be extended. The moment you destroy the bank, the notes it has issued, to the amount of \$5,000,000, will return; the deposits, amounting to nearly eight millions and a half, will come into the market; these, added to the private capital which can be spared, will supply the means of sustaining the shock.

I feel confident the removal of public deposits will go far to remedy the evil. The loan, obtained from the bank, and payable the 1st of January, will add to the facility of satisfying the claims of the bank. Even the funds of the institution itself will rapidly glide into channels of profit, and contribute to the object. Thus, sir, this omnipotent association, whose influence pervades the Continent; whose nod dispenses protection or ruin, like an angry cloud, will be disarmed by the conducting powers of the State banks; there will be no explosion. Its substance will be secreted, mixed with their juices, and strengthen the general system.

In the public discussions upon this subject, we have been told the quantity of specie has been reduced below the actual wants of trade, and that the portion of stock held by foreigners will be carried abroad in money. Those who endeavor to alarm us in this way, are either ignorant themselves, or they calculate largely upon our credulity. It is, sir, a melancholy fact, that specie has been almost banished from circulation by paper, and from the vaults of the banks by exportations abroad, in a commerce which does not replace it. It is equally true, that this bank has contributed more than any other to produce this deplorable result. But it is evident the exportation must be limited in amount, or the import of specie commensurate, if we do not continue the present system which threatens us with a currency exclusively paper.

As to the exportation of specie by the foreign stockholders, nothing can be more absurd. Have not the motives which induced them to invest their property in the United States been strengthened? Yes, sir, funds in every part of Europe are fluctuating and insecure; the grip of taxation has embraced them, and you must think worse of the judgment of these proprietors than I do, if you suppose they will quit a country whose institutions are safe, and whose property is advancing rapidly in value. But laying aside considerations which of themselves are sufficient pledges, the rate of exchange renders the remittance of specie, particularly silver, altogether improbable. Would any man in his senses ship specie to England, when he can purchase bills of exchange eight or ten per cent. below par? Will he lose four per cent. insurance, freight, and commissions, when he can make eight or ten by remittances in bills of exchange? These questions

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carry conviction to every man, unless he supposes money is worth more than this difference over the paper currency of the country. Although the exchange is in favor of Holland four per cent., it would be cheaper to lose that amount than pay fifteen or twenty per cent. insurance, &c., for the transportation of specie, subject to risk from British cruisers, and seizure from French rulers in port. No one will say that the Dutch have any motives to draw their funds from the United States.

After showing, I hope to your satisfaction, that specie cannot be remitted in the actual state of things, I will suppose foreign stockholders should transfer their capital, how would that affect this country? From what I have said, it appears that the one million held in Holland, and six millions in England, if withdrawn from the United States, would only be an exchange of funds with the American merchant, and would not affect the money in circulation. I confidently believe the present embarrassments of merchants arise from the spoiliations of the belligerents, and principally from the accumulation of funds in England, which they cannot withdraw but at a great loss. For some time past shipments have been almost confined to England; the prices have been good, and the proceeds far above the demand for English merchandise; added to this, whenever shipments have been made elsewhere, the profitable purchases of bills have increased their funds in Great Britain.

The fact is clearly demonstrated from the state of exchange, which for the first time is greatly in our favor. If, then, the stockholders should remit their funds by bills of exchange, it would bring six millions into the market, and not only relieve the American merchant from the unfavorable state of exchange, but would at once furnish the means of meeting his engagements and relieving his embarrassments. It would be a loss of that much capital to the United States; but we can bear the loss, as is evident from the rapidity with which new capital is supplied to form new banks. Should they give a preference to moneyed institutions here the community would be equally relieved.

It may be asked, if foreign capital remains, shall we not be exposed to its influence? I do not, sir, object to the use of foreign capital by individuals, but I never will consent to organize it under the patronage of the Government; in the hands of an individual its influence is comparatively insignificant. Combined in the form of a National Bank it becomes truly formidable to the best interests of the nation; besides, I well know that individuals who can obtain money at an interest less than the profit it yields, cannot be prevented by law from borrowing. In this form it may subserve the purposes of industry, but cannot control public opinion or obstruct public measures. If, sir, the pressure upon the community should not be removed in the mode I have suggested, the bank will naturally proceed in the collection of its debts, in a manner best calculated to secure itself. I cannot imagine measures

will be adopted which will force the merchants either to fail or to refuse payment. Such conduct on the part of the bank would be wantonly cruel and unjust, and would probably terminate in great losses. In the event of such a procedure the merchants would compel the bank to resort to the ordinary course for the recovery of debts, and under such circumstances I do not apprehend their credit would be affected with other banks. The alarming scarcity of specie, produced by the facility which the bank has furnished, to procure it for exportation, and speculations in bills sold by the agents of the British for the use of their troops in Canada and the West Indies, cannot be too strongly impressed on the mind of the Committee, or too soon stopped by the Government. It is true that a temporary inconvenience results from the latter mode of exportation, because it is soon brought back in return for provisions supplied by the Middle States. It must be known, sir, to you, why the import of specie, which nurtured the East India trade, has ceased since the revolution in Spanish America, which opened the direct trade to the English for supplies of British and East India manufactures, and the facility of shipping specie direct to Spain, without the intervention of bills of exchange obtained in this country on Europe; the supply of *American* produce to the Spanish colonies has never been more than sufficient to keep up the necessary quantity for our own use and for the India trade, to an extent limited by our own wants; hence the disadvantage of the paper system, which furnishes the means of prosecuting this trade after its utility is done away. Gentlemen will tell me this evil will correct itself, and that the merchants will not persist in a branch of business unprofitable for want of markets. I readily admit this position to be correct; but, before all those sanguine adventurers will be convinced, who are tempted by the accommodation of the bank, we shall be so far drained of our real capital, as to be incapable of sustaining public confidence in the stability of our money institutions. There is one effect from the extent to which the banking system has been pushed in this country, which deserves serious attention. I think the capital of the banks should rather fall short than exceed the demand of those engaged in trade; whenever there is an excess of capital the competition will be among the banks to lend, and they will advance funds to those who are not entitled to credit. This fictitious credit, given to individuals without property, will expose the farmers and planters to the most serious injury, because, whenever they fail, their property will go entirely into the coffers of the bank, or the hands of their endorsers. In Baltimore, where the bank capital has always exceeded the demand by solvent customers, and where, to give full employment to their funds, the banks have been induced to accommodate mere speculators; failures have happened to the amount of a million, without property to pay the creditors twenty cents in the dollar. This has been the effect of excessive bank capital.—[A gentleman from Mary-

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land corrected Mr. BURWELL, by stating that the failures had exceeded in the aggregate the sum he had mentioned, but in no single instance had the loss to creditors exceeded \$600,000—I stand corrected. Only six hundred thousand dollars! Why, sir, this moderate sum would ruin a whole county if it had fallen upon the farmers. If the apprehensions of the public should coerce you to renew the charter at this time, I shall consider it perpetual. The same means which secured it now will not be forgotten, or neglected hereafter. You may rest assured the magic terror of bankruptcy will be revived when there is occasion. Perhaps the growing wealth of the people may hereafter raise them above the control of the bank, with ten millions capital, but if you should unfortunately adopt the favorite project of some, to establish a grand National Bank with a capital stock equal to thirty millions of dollars; if afterwards you keep pace with the growth of the nation, you may indeed despair of all control over it in future. It will become so interwoven with the fiscal transactions of society, and so intimately blended with the existence of the Government, that their duration will be coequal. The dangerous power of a bank extended over the Continent, with a capital which would necessarily embrace in its funds all the individuals of wealth and influence, would produce the same effect with a national debt to that amount; and when you recollect that this machine will be controlled and managed by the Executive branch of the Government you cannot but feel the most serious apprehension of the consequences. Sir, I do not discuss this question with party feelings; I look forward to the time when the bank and Government will feel in unison, and act in concert. The opposition of the bank is temporary, and will soon yield to its obvious interest. It is that period to which my fears are directed. Who can doubt that the present misunderstanding is the result of momentary causes? Yes, sir, the quarrel is an unnatural one, explanations will take place, reconciliation will ensue, and then we may deplore their intimate friendship infinitely more than their hostility now.

Banks are commercial institutions; the first impulse of their nature is to make money and support the power which can promote their profits; the individuals concerned in them will feel political passions, and may indulge them, but they will learn from experience the wisdom of suppressing their passions when they hazard the loss of profit and patronage. I have, therefore, felt no disposition to know anything about the directors, or to hear the instances of political intolerance and individual favoritism. It would be silly to found our views of the tendency of such an institution upon its conduct during a particular period. I am against giving any set of men such exorbitant power over the persons and property of the community; I am opposed to a moneyed aristocracy, which can hunt down whoever may be offensive to them, and not from hostility to the particular persons who now compose the bank. Sir, the time may arrive when

the Government may fall into the hands of men whose policy, in my estimation, leads to the destruction of the Constitution, and the corruption of public virtue. Would you wish to see such men bolstered up by the influence of a National Bank? Would you be satisfied to see the good sense of the country hoodwinked by money influence? A corporation, possessed of such ample funds, could control presses or establish them to support the most iniquitous men, and advocate the most detestable principles. You should bear in mind that this influence cuts both ways, and it is better to leave public opinion unfettered, trusting to the sound sense and discretion of the people, free from the operation of all extraneous power.

What would the world say if you should demolish this bank to create another? Is there a man in the community who would not condemn you, and justly reprobate a policy so short-sighted and selfish? Such conduct would give full scope to swindling and speculation, and scenes which stain with shame the history of this Republic would be renewed. Sir, the system of paper credit, against which I have entered my protest, and to which I attribute the artificial and insecure state of this country, deserves nothing from you. You need not violate the Constitution to preserve and extend it; without your fostering care, enough will remain to alarm those who prefer solid wealth to the mere appearance of it; although those who think the wealth of a nation can be augmented by printing a few reams of paper will be dissatisfied; they exult in the deception and premature prosperity which flows from public delusion, and will be overthrown the first moment your real condition may be tested by difficulties. I, sir, have been accustomed to think the wealth of a nation consisted in its productive labor, and its capital could be safely augmented only in the ratio of the difference between its consumption and productive labor. This is the true mode of acquiring capital, the process will be slow, but the advance will be permanent. It will depend upon principles of economy, industry, and steady exertions; it is incompatible with prodigality, speculation, and profligate acquisition of wealth. Virtue is the basis of one, delusion and imposture of the other. A people thus situated, steadily exerting its powers, will furnish ample means to procure circulating medium, and prudent habits will add to it with sufficient rapidity. I have always preferred being a happy to a splendid nation. Sir, I have now closed my remarks; the particular situation assigned to me by the House in relation to this subject has compelled me to state the extent of my objections to the bill. I have carefully refrained from expressions which could wound the feelings, or impeach the motives of those who differ from me in opinion. I have no disposition to say anything about the transactions of the bank—they are all unknown to me, and I care nothing about them. My conscientious belief is, that the law was unconstitutional, and I sincerely trust we shall destroy what has so long de-

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faced its original purity, close up the breach which has been made, and cement it by a vote upon principle. I confess the consolation I shall feel in the success of my motion will be greatly diminished if it obtains by the intervention of other motives.

When Mr. B. had concluded, the Committee rose and reported progress; and the House adjourned at a little past four o'clock.

#### TUESDAY, January 17.

The bill from the Senate, entitled "An act for the relief of Ebenezer Rollins," was read twice, and committed to a Committee of the Whole on Monday next.

The SPEAKER laid before the House a further report of the Comptroller of the Treasury of unsettled balances; which was read, and ordered to lie on the table.

On motion of Mr. SEYBERT,

*Resolved*, That the joint committee appointed by the Senate and House of Representatives of the United States, respecting the Library belonging to Congress, be directed to inquire into the expediency of making provision for the permanent safe-keeping of the books.

Mr. JENNINGS, from the committee appointed, on the fifth instant, to inquire into the expediency of opening a road from Vincennes, towards Dayton, in Ohio, made a report; which was read, and referred to the Committee of the Whole on the bill to authorize the laying out of a public road, from the line established by the Treaty of Greenville, to North Bend, in the State of Ohio.

The report is as follows:

That the opening of such a road was contemplated by Congress in the act passed April, 1806; but the moneys appropriated for that, and similar purposes, have been found insufficient to accomplish the desired objects.

That the opening of the contemplated road would certainly expedite the sales of public lands, inasmuch, that the Government would shortly be remunerated from that source for necessary expenditure, independent of the general advantage to be derived from an addition to the number of our public roads.

That it will be found the most direct course from Pittsburg to Vincennes and St. Louis, and will no doubt become the chief post route to the Territories northwest of the rivers Ohio and Mississippi, from the seat of Government of the United States, by way of the seat of Government of the State of Ohio. The committee, therefore, beg leave to submit the following resolution:

*Resolved*, That it is expedient to cause to be opened a road from Vincennes, or from some point on the road leading from Vincennes to the falls of Ohio, to the eastern boundary of Indiana Territory, in a proper direction, towards Dayton, in the State of Ohio.

Mr. EPPES, from the Committee of Ways and Means, presented a bill making appropriations for the support of Government, for the year 1811; which was received, and read twice, and committed to a Committee of the Whole on Monday next.

Mr. EPPES, from the same committee, also

presented a bill making appropriations for the support of the Military Establishment, for the year 1811; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. EPPES, from the same committee, also presented a bill making appropriations for the support of the Navy of the United States, for the year 1811; which was read twice, and committed to a Committee of the Whole on Saturday next.

On motion of Mr. GOLD,

*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for the more convenient taking of recognisances of bail and affidavits in causes depending in the respective courts of the United States; and that they have leave to report by bill.

Mr. GOLD, Mr. VAN DYKE, Mr. GHOLSON, Mr. WHITEHILL, and Mr. RHEA, of Tennessee, were appointed the said committee.

Mr. JOHNSON, from the committee appointed on the twenty-sixth ultimo, presented a bill for establishing trading houses with the Indian tribes; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. FINDLEY presented a petition of Arthur St. Clair, late a Major General in the Revolutionary Army, praying that his claim for moneys advanced while in that station may be re-examined, and that he may be allowed the full amount of the money so advanced, anything in an act of the last session, for his relief, to the contrary notwithstanding.—Referred to a select committee.

Mr. CLAY, Mr. MCBRYDE, Mr. HALE, Mr. NEWBOLD, and Mr. NICHOLSON, were appointed the committee.

Mr. HAVEN introduced the following resolution, with some remarks on the frequency with which cases pending before the courts of the United States of prosecutions for violation of the embargo and non-intercourse laws were decided against the United States, and the ill effects which such frequent failures must have on the community, creating a disrespect for the laws, &c.:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House such information as he may have respecting the prosecutions which have been commenced in the respective district courts, for supposed violation of the several embargo and non-intercourse laws, and what sums—particularly specifying those which have been brought to final issue as well as those now pending; stating also the expenses incurred by the United States in the several and respective prosecutions, and the amount of forfeitures and penalties recovered; and that portion of them for which the United States have, or may have credit at the Treasury.

This resolution was agreed to—ayes 42, noes 32.

Mr. VAN HORN, from the Committee for the District of Columbia, presented a bill making an appropriation for building a jail in Alexandria county, in the District of Columbia, and for other purposes; which was twice read, and committed to a Committee of the Whole on Monday next.

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*Memorial of Captain Tingey.*

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On motion of Mr. PITKIN,

*Resolved*, That a committee be appointed to inquire into the expediency of altering the times of holding the circuit court in the districts of New York, Connecticut, and Vermont; and that they report by bill, or otherwise.

Mr. PITKIN, Mr. GOODWYN, and Mr. ROBERT BROWN, were appointed the said committee.

THE SPEAKER observed that he was informed that the Secretary to the President of the United States was in waiting, with a confidential message.

On motion of Mr. SOUTHARD, the galleries were cleared, and the doors closed. They were, after a few minutes, again opened.

## MEMORIAL OF CAPTAIN TINGEY.

Mr. BASSETT presented the following memorial:

*To the honorable the House of Representatives of the United States in Congress assembled:*

The memorial of Thomas Tingey, Captain in the Navy of the United States, and Commandant of the Navy Yard, Washington, respectfully sheweth:

That during the last Summer, sundry publications were circulated through the medium of a newspaper printed in this city, entitled "The Spirit of Seventy-six," signed by a certain "Joseph B. Parsons," and also by an anonymous writer under the signature of "An inhabitant of F street," tending to induce a belief in the public mind that your memorialist had been guilty of sundry acts, whereby the public interest had been wilfully prostrated for his personal benefit, together with insinuations of other acts of dereliction of his duty in the public service, also to the prejudice of the interest of the public.

Your memorialist, therefore, conscious of rectitude in all his intentions, and of the strictest integrity in all his transactions on account of the public, during the whole time he has had the honor of being in their service, respectfully hopes that your honorable House will direct a thorough investigation into his conduct in such manner as in your wisdom shall be deemed just and proper.

Your memorialist forbears to trouble you with an enumeration of the causes which have delayed the presentation of his memorial, or with any of the documents on which he founds his request, believing they may be with more propriety submitted hereafter in detail to those to whom your honorable body may commit the desired investigation, should you deem it proper to honor his memorial with your notice.

THOMAS TINGEY.

NAVY YARD, WASHINGTON, Jan. 14, 1811.

Various motions were made in relation to this petition.

Mr. JOHNSON was in favor of referring the letter for inquiry. He thought the House had power to inquire into the conduct of any officer of the Government.

Mr. LOVE conceived this to be a subject with which the House had nothing to do, and was therefore in favor of giving the petitioner leave to withdraw his petition.

Mr. SMILIE said it was an extraordinary piece of business, with which the House had nothing to do. He could not sanction the doctrine as to

the powers of this House, under which they had already entered into an investigation of the conduct of a Brigadier General of the Army.

Mr. NEWTON thought the subject had been introduced too late in the season for them to act on it, if they were disposed to do so. But, he said, he was too well acquainted with committees of inquiry to be too liberal in their use. They ought only to be applied to culprits of the first grade, and not to the investigation of the conduct of every officer who chose to apply for an inquiry by the House.

Mr. FISK proposed a resolution for appointing a committee to inquire generally into the state of the navy yard at Washington, but subsequently withdrew it.

Mr. WRIGHT was opposed to entertaining the petition in any manner, or giving the least reason to believe that they would interfere with it.

Mr. PICKMAN moved that the petitioner have leave to withdraw his memorial.

Mr. LOVE moved to amend the motion so as to read as follows: *Resolved*, That the petition of Thomas Tingey contains matter not proper for the investigation of this House, and that the petitioner have leave to withdraw his petition.

Mr. SHERREY was opposed to the amendment. He said it stated what was not true in fact. What were the allegations on which this memorial was founded? Peculation in the public treasure was alleged; and would the gentleman say the House had not authority to inquire into it? Had not the House, in opposition to all such arguments, pronounced a determination to inquire into the conduct of an officer whom they could not impeach? Mr. S. said it was not correct to say that this House had not a right to inquire into the frauds on the public Treasury—into the pilferings of the hard earnings of the people. While he believed this to be a proper construction of the authority of the House, he would never interfere to inquire into the improper conduct of any officer of the Government on his own mere motion. He hoped the House would on this occasion do what was necessary and proper, and would not travel out of the record to pass an abstract resolution. He hoped the amendment would not be agreed to, because it would be unnecessary and untrue in point of fact. The House had already settled the principle that it had a right to inquire.

Mr. LOVE asked if it was not agreed on all hands that this matter was improper for the House to inquire into? If so, what objection could there be to putting it on record? What was there "abstract" in this proposition? If there was, it was merely whether Congress, a body of representatives met to legislate on public business, had a right to entertain the complaints of petty officers, or to notice all the slanders which found their way into newspapers. If this resolution were passed, it would prevent a waste of time on future similar applications. The gentleman had asked whether Congress had not a power to inquire into fraud or peculation. Mr. L. doubted much whether they had a power to

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inquire by bringing the officer before them. Were they to be occupied in considering the complaints of every petty officer, as low as a corporal or sergeant? The head of the department was the proper organ for reforming abuses; and he was amenable to Congress.

Mr. PICKMAN said it would not be proper to adopt the amendment proposed, without laying the whole memorial on the journals; which was unusual. Different reasons had been urged by different gentlemen for not acting on the subject; and it would be most proper and most consistent with the usual course of proceeding, simply to give leave to withdraw the petition.

Mr. BACON said the gentleman from Virginia (Mr. LOVE) would accomplish a great point indeed, if he could at this short notice induce the House to reverse a decision they had so lately made. Mr. B. contended it was lawful for the House to investigate such matters; but it did not follow that it was always expedient to do so. In cases of great public concern, as in the case of General Wilkinson, it might be proper, but it did not follow that the malversation of every petty officer was to become a subject of inquiry. There was no occasion to assign on the journals any reason why the petition should be withdrawn, and he was, therefore, against the amendment.

Mr. NEWTON said that the House had settled it as a principle that it was a grand court of inquest for this nation; and whenever they thought proper to exercise this power over any officer, they had a right so to do, and he hoped in God they always would do it. But if they commenced inquiry into the conduct of every navy agent, &c., there would never be an end to business of this sort. They could neither do the nation or the individuals justice. He hoped they would not, by agreeing to the amendment, deny the Constitutional power of the House, but would give the petitioner leave to withdraw his papers.

Mr. McKIM said he was decidedly in favor of inserting the words proposed as an amendment, viz: that the memorial contained matter not proper to be inquired into by the House. It was the most appropriate expression that could have been employed. What was the object of the memorialist? A justification of his own private reputation; which is alleged to have been traduced in a newspaper, and by private characters. Mr. McK. asked, are not the laws open to him? Why not resort to them? Why bring the subject before the National Legislature, when he has so good a remedy before another tribunal? In fact Mr. McK. said he was disposed to have a general inquiry into this subject, but he doubted the expediency of commencing it at this period of the session. But, above all, he was opposed to founding any inquiry on a petition of this nature.

Mr. LOVE said he found his amendment in a very singular position; that some of his friends were very much in favor of it, but embarrassed by a decision they had already made on the case of General Wilkinson. To relieve them from this awkward dilemma, he withdrew his proposed amendment.

It was then resolved that the memorialist have leave to withdraw his memorial.

#### BANK OF THE UNITED STATES.

The House resolved itself into a Committee of the Whole on the bill for renewing the charter of the Bank of the United States—the motion for striking out the first section still under consideration.

Mr. FISK.—Mr. Chairman: I regret that we are called upon to vote for or against striking out the first section of this bill, at this time. I could have wished that, upon a bill of so much interest and importance, we could have proceeded to have filled the blanks, and made such amendments as would have obviated many objections which may be urged against it in its present form. I am not prepared to give my vote in favor of a renewal of the charter of the Bank of the United States, either upon the terms upon which it was originally granted, or in the manner contemplated by this bill; yet, upon conditions less objectionable, I should feel myself bound to vote in favor of a renewal. But the question presented upon this motion, is not upon what terms this charter shall be renewed, but whether it shall be renewed upon any terms, subject to any conditions Congress may impose.

In this view, I consider it the most important subject upon which this Congress will be required to act. It is determining a question which is connected with our finances, with the circulating medium of the country, and with our agricultural, commercial, and manufacturing interests; and, as such, it cannot but be interesting to every class of our citizens.

The interests and prosperity of the United States are not only intimately, but inseparably, connected with trade. The market of the farmer depends greatly upon the merchant and the shipper. And the price and demand of every article of produce is in a great degree regulated by the difficulties or facilities of payment. Let the difficulty of paying be increased, and the price of produce immediately falls; for the demand for exportation becomes very limited, the markets are overstocked, and prices reduced. Any sudden check to our commerce, whether produced by our own municipal regulations, or the outrages of foreign Powers, checks the market and the price of produce; so that not only the merchants, but the farmers feel its effects. I scarcely need recur to the history of the times when trade was principally suspended in this country, to show how severely the suspension operated upon every class of our citizens, and in every part of the country. This period in our political annals will be long remembered. So great was the distress in some States, and agricultural States, too, that their Legislatures deemed it necessary, for the protection of the debtor from the power of his creditor, to stay the administration of justice, and prohibit by statute the issuing of an execution for the collection of any debt.

This proves the connexion which subsists between the two great agricultural and commercial



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interests of this country. Agriculture, commerce, and manufactures constitute the source of our wealth, revenue, and prosperity. To foster and cherish the principles upon which rest our existing hopes and future prospects, can never be a question of doubtful policy with a wise and patriotic legislature.

We have seen that commerce is essential to our interests; but commerce will not flourish without credit. It never has prospered independent of credit. As credit is essential to trade, so is punctuality to support credit. Look at the business of any commercial people, and see how much of it is done upon credit; and see the integrity and fidelity with which punctuality is maintained in order to support their credit.

For several centuries past, banks have been the successful medium through which credit has not only been preserved, but great wealth acquired. This assertion is warranted by the history of these institutions, and of the countries where they have been patronized. The first bank established in Europe, was at Genoa, in 1407—four hundred and four years ago; this was soon followed by one at Venice.

The Bank of Amsterdam was established in 1609, and shortly after those of Hamburg and Rotterdam; and the Bank of England in 1694; the Royal Bank at Paris in 1718; the Bank of North America in 1784—a memorable period in our history—and the Bank of the United States in 1791.

All these different institutions show, that enlightened legislators have entertained but one opinion upon this subject both in Europe and America for the last four hundred years. They have seen and acknowledged their utility. Banks have long since been considered not only essentially useful in the transaction of commercial concerns, but as highly necessary to aid the fiscal operations of Government. And a more unanswerable argument cannot be urged in favor of their general utility than their uniform success; to this may be added the prosperity of the people and the countries where banks have been supported. Their immediate advantages are, a convenient circulating medium; the safe depositary they afford for cash and funds. And they serve to keep the standard of money steady and correct; to insure punctuality; to preserve credit; to inspire confidence, and to promote a spirit of industry and enterprise. They are not, as many have supposed, in their nature hostile to Government and dangerous to liberty. They rather form a barrier to tyranny and oppression. Their principal business is to lend money at the common rate of interest, and thus prevent usury. The owners of banks are generally rich men, who have not only their personal liberty, but a large property to risk, by sedition, treason, and rebellion. It is their interest to resist oppression. We need scarcely point to the continent of Europe for proof of the fact, when we assert, that trade and banks cannot flourish where despotism prevails. Despot power generally ruins trade and banks, but no instance occurs in history

where banks, not under the control of government have ruined a State. A bank owned by Government, and under its command, would be an engine dangerous to the people. But when owned by individuals, neither the people nor the Government have anything to fear from it. It is then dependent on both for its business, prosperity, and usefulness.

With the evidence which both history and experience offers to our reflection, we cannot doubt the utility of banks, nor deny but that they have been beneficial to us. And we are justified in the conclusion, that, under proper regulations, they may subserve the best interests of the people of the United States. They are now in successful operation in almost every State in the Union, and that they have been useful, the present prosperous state of the country abundantly proves. We enjoy as perfect security for life, liberty, and property, as any people under any government ever did. These are the great objects of a good government. And we may triumphantly ask, where is the nation or people that enjoy these with more freedom and safety than the American people? A parallel for our liberty and prosperity, for the last twenty years, is not to be found in the history of man. Our wealth, population, and resources, have increased beyond what any one would have calculated or imagined, and beyond what strangers and foreigners now believe. Industry, wealth, and contentment, pervade every quarter of our country, and poverty and oppression are unknown to our citizens.

In 1791, the year this bank was incorporated, our exports amounted to about eighteen millions of dollars; and in 1804, they had increased to about seventy-six millions, gaining in thirteen years fifty-eight millions; and our tonnage in about the same proportion.

Much of this prosperity is to be attributed to the active capital which has excited industry, and a spirit of enterprise among us, and the activity of this capital has been in a great degree created and promoted by the Bank of the United States. Its operations have been extensive in all our trading towns. It has aided in loans and discounts, and assisted in the collection, safe-keeping, and transmission of our revenues. It has been the depositary of our Treasury, and is now become incorporated with the administration of the fiscal department of our Government. The connexion which it has formed with almost every branch of business in the country, is not slight and trifling, and so easily to be severed as some seem to believe. Its operations are deeply interwoven with the dealings and concerns of all the men of business in the United States.

With a capital of ten millions, it has furnished accommodations of fifteen millions a year. This has been employed principally in trade; in making prompt and cash payments to our farmers for their produce. This, again, has furnished to our citizens a ready and profitable market for every article of produce. These high profits of a good market have gone into the hands of the farmer, to cultivate, improve, and enrich the country.

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And travel through any State in the Union, and their effects may be readily seen, affording a prospect, consoling and elevating to the philanthropist and the patriot. The land is highly cultivated, good buildings, turnpike roads, bridges, and other expensive improvement, indicate the wealth of our citizens, and the prosperity of the country. Money has been freely circulated, trade has been active, produce high, and our country has been improved by these unexampled advantages to a degree far beyond what the most sanguine calculations, twenty years ago, could have anticipated. And yet, sir, we are gravely told, that this bank has nearly ruined the country; that it is threatening our best interests with destruction. As well might gentlemen tell us that total darkness prevails at noon-day, or that the sun, in his meridian splendor, affords neither light nor heat to any part of this globe.

The principal portion of the trade and business of the United States has been conducted by a paper medium; metallic has scarcely been seen. The amount of this circulating medium is, say fifty millions. Now what is proposed by denying a renewal of the United States' Bank charter? That this bank shall close its concerns, and of course stop all its accommodations. This must necessarily check and change at least one-third of the circulating medium of the country. It will undeniably require \$24,000,000 to be directed to one operation, and for a time to one point—for the capital is \$10,000,000; this is to be collected to divide among the stockholders. There are \$19,000,000 due to the bank; this must be collected. This will occasion a demand for this amount from other sources; it must be paid. And the \$5,000,000 in the bank makes the sum of \$24,000,000, which must be suddenly called in. The effect this will have upon the various interests in the country can neither be described or conceived. It must inevitably give a general and heavy shock to all paper credit; this credit, so much and profitably in operation, must receive a severe, if not a mortal wound. And what substitute have we for this when it shall be destroyed? Silver and gold coin cannot be relied on. There is not from the best estimate an amount to exceed \$10,000,000 specie in all our cities and trading towns, and this will be collected by this bank. The price of all stocks, and every kind of produce and species of property must suffer a great depression, for a scarcity of money enhances its value, and consequently depresses the value of every other species of property. That this sudden, if not total change in our system, must occasion great embarrassment, produce failures, disappointments, and distress, among our citizens, is certain.

To say the least of such a measure, is to term it an experiment which no well regulated State has ever dared to make, from the first institution of civilized society to the present time. Stronger governments than ours, in risking such an experiment, must insure their overthrow and ruin. Perhaps the good fortune of the American people is a sufficient guarantee against all the disas-

trous consequences which any other people might experience from such a measure. But I own, sir, I dare not incur by my vote the awful responsibility of this bold and untried experiment, unless compelled by the Constitution. This, in my most deliberate opinion, the Constitution does not require.

But the question of constitutionality I shall not at this time discuss. If it is a question which Congress may discuss and decide, it was discussed and deliberately decided at the time this charter was granted. The decision it then received has met with the general approbation of the States and of the people. Branches have been established in a number of the States, and the bills have circulated without opposition or difficulty in all. And counterfeiters of this paper are punishable for forgery by the statutes of the different States. For twenty years this institution has received the countenance and patronage of the Government. In this patronage there has been no difference in the several Administrations, unless that of the Republican Administration has been the most extensive. This bank has been employed by the Government to keep its treasure, to collect and transmit the revenue; and the Government, it will be recollected, originally owned two-fifths of the capital, which has been sold at a great advance. The United States owned \$2,000,000, equal to five thousand shares. 2,493 shares were sold in 1796 and 1797. at an advance of 25 per cent. - - - \$997,200  
Twenty-five per cent. gain - - - 298,600

First sale amounted to - - - 1,295,800

287 shares sold in 1797 - - - 114,800

At twenty per cent. advance, gain - - - 22,960

137,760

By the Republican Administration in

1802, two thousand two hundred and  
twenty shares - - - 888,000

Add 45 per cent. advance, gain - - - 399,600

1,287,600

137,750

1,295,800

2,721,160

So that the United States gained \$721,000, and of this \$399,600 has been received by the Administration under Mr. Jefferson. This sale was sanctioned by a vote of the House of Representatives, although it was to a foreigner, an Englishman, Mr. Baring; and our Government gained, on this sale, \$399,600. This conduct of the Government and of the then Republican majority of the House of Representatives did not evince any scruples about the constitutionality of the charter. If it was deemed unconstitutional and dangerous to the liberties and interests of the people, it was not for those who entertained this opinion to give it countenance and support. They ought rather

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to have taken measures to have checked and stopped its operations. And there is nothing in the argument that the faith of the Government was pledged for twenty years, and the law, although unconstitutional, could not have been repealed. For Congress cannot pledge the faith of Government by an unconstitutional law. If Congress should establish a monarchical government in any State or Territory, and by law guarantee it to the people for twenty years, would any one dare to contend that the faith of Government was pledged for twenty years, and this law could not be repealed? Certainly not. And why? Because such a law would be unconstitutional. It would be the duty of the Legislature to repeal it, because the members are sworn to support the Constitution? And how will gentlemen, who have been members of this House many years, and entertaining the opinion that this charter was a violation of the Constitution, and voting to approbate the sale of the bank stock, and for other measures to countenance its operation, and never attempting to rid the country of this monster, reconcile their conduct with their duty? It can only be reconciled by the conclusion that they did not question the constitutionality of the charter. This conclusion is warranted by the act of Congress, passed 16th of February, 1804—*Laws United States*, volume 7, page 87, in these words, entitled "An act supplementary to the act to incorporate the subscribers to the Bank of the United States:

"*Bé it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President and Directors of the Bank of the United States shall be and they are hereby authorized to establish offices of discount and deposit, in any part of the territories or dependencies of the United States, in the manner and on the terms prescribed in the act to which this is a supplement."

If the original law was unconstitutional, this act extending the powers of the corporation was equally unconstitutional. This act was passed by a Republican Congress, who did not believe that the original charter was unconstitutional. It is but lately, very lately, that Constitutional difficulties have suggested themselves to some gentlemen. Even at this time, the Administration has no objection to the constitutionality of the measure. The report of the Secretary of the Treasury, the proper officer to speak the opinion of the Executive upon this question, is my authority for the assertion, that the Executive will have no Constitutional difficulties to encounter in passing a bill for the renewal of this charter. That report was made pursuant to a resolution of this House, and has been laid upon our tables. It states no objections to the renewal of the charter, but points out the advantages the Government have derived from this bank, and hereafter may derive, if it shall be continued. How is it that this report of the Chancellor of the Exchequer, upon a question of financial economy, is not respected as were his reports in former times? Has he lost his talents at calculation? Does he tell unwelcome truths, or is there something "rotten

in Denmark?" Great exertions have been made to excite sensibilities and clamor against the renewal of this charter. The money changers, stock brokers, and speculators, vultures that prey upon the vitals of the community, have been flying through the country, denouncing all who should express or entertain an opinion in favor of the measure. But, I trust, we are not yet arrived to that period in the history of our Government, when Congress must legislate under the hissings of the gallery, or the denunciations of prostituted or misguided presses. If we are, sir, we may bid adieu to our liberties. Unawed by these vaticinations, it becomes us to examine patiently, and decide deliberately, this great question presented to our consideration for decision.

In examining this question, we are naturally led to inquire, Is an institution of this nature, in the present state of our country, necessary—is it proper? And, in pursuing this inquiry, let me recur to the report of the Secretary of the Treasury, and see if the aid of this institution is required in the administration of the financial department of the Government. Will not his experience enable him to answer the question correctly? To what better authority shall we resort? What are the principal duties of the Treasury Department? The collection, safe-keeping, transmission, and disbursement of public moneys. For performing all these duties, this bank has been the efficient and faithful agent. In twenty years past, it has collected and disbursed, at its own risk, not less than \$100,000,000 public moneys—if you allow the revenue to have averaged \$5,000,000 a year, it would amount to this sum received in; and same amount transmitted and disbursed amounts to \$200,000,000 in twenty years. Having a greater capital than any other company in the country, the public money is more secure with this company than any other. It then assists essentially in the safe-keeping of the money, and this, the report tells us, is one of its advantages to the Government. But its more essential assistance to the Government is in the collection and transmission of the revenue at its own risk. Our revenues are secured by bonds, and these bonds are payable at this bank and its branches, in the different ports of collection. They are accordingly lodged in the bank for payment, and, when due, they must be punctually paid, or the debtor loses his credit at the bank, and, of course, in the commercial world. Hence, every exertion is made to pay at the time the bond becomes due; and hence our revenue has been paid with such scrupulous punctuality, and so few losses. And, is it not an object of magnitude, that we provide for the safe and sure collection of our revenues, which, in prosperous years, may amount to eighteen or twenty millions of dollars?

Put down this bank, and how then are your revenues to be collected? Through the medium of the State banks? You do what no prudent man, in his individual concerns, would think of doing. You discard a faithful, honest, responsible agent, whose integrity and fidelity you have

known for twenty years, and you place your estate in the hands and at the disposal of twenty or thirty entire strangers, of whose character and responsibility you know nothing, nor have the means of acquiring any knowledge, and over whose conduct you have no control. Should an individual act thus with his property, he would be deemed to have lost all regard for it, if not considered a madman. In resorting to the State banks, we are offering the amount of our revenue as a bounty for intrigues, cabals, and factions through the country. In almost every State there are a number of banks, and each will endeavor to get the revenue collected in that State, to keep and trade with. It must be given to one, or divided among them all. If one is selected as the favorite, all the rest become jealous, dissatisfied, and exert their capital and influence against the favorite bank and its patron, the Government. This will awaken a spirit of faction in every State yet unknown in this country. If all are to be gratified in their request for the deposites, the Government must open separate accounts with all the different banks in the country, to the amount of fifty or sixty; and new companies will be formed, and new applicants request to divide the business and share the profits. Indeed, there will be no end to the scenes of speculation and intrigue, which will soon appear, if this course is adopted by the Government.

Again: the Government have no means of ascertaining the system or principles upon which these different banks conduct their business; they are creatures of the States, and in no way answerable to the General Government. The Treasury cannot inspect their books, nor ascertain their funds; of course we must be ignorant of their responsibility. And yet we are to deposit moneys in their hands, to five or ten times the amount of their capital. But few of the State banks have a capital beyond a million. In New York and Boston, the revenue deposites may amount to five or six millions a year; and are we to intrust this with a corporation, which, if it failed, would not pay more than a fifth part of it? Besides, you may not be able to command these moneys when required, if left with those over whom you have no power. It is possible some of these State institutions may be hostile to your Government; they may refuse payment, and this refusal be supported by the State. Shall we place our public treasure under the control of States which can order out their militia to oppose and resist the execution of our laws, or refuse their aid to enforce them?

But, suppose the revenue collected and safely kept by these different banks, how is it to be safely and speedily transmitted to different parts of the Union to answer the demands of Government, and at whose risk and expense? Can the opponents of this bill obviate this difficulty? It is a difficulty of a two-fold nature, first in finding a safe mode of conveyance, and, secondly, a convenient medium to transmit. Specie cannot be procured; and what State bank bills, if sent, would pass current in every part of the United

States, as the bills of this bank do? Carolina and Kentucky bills are unknown, and would not pass in New York and Boston; and New York bills would not pass in Kentucky or Carolina. New England bills do not pass in New York but at a considerable discount. But, under the present system, if Government have five millions deposited in Boston, and it is required to be paid at New Orleans, a draft is given by the branch in Boston, upon that in New Orleans, and the money is paid at the latter place as soon as the mail can travel there.

Again: if the Government is to take the risk of collecting and distributing the revenue, let us inquire, what this can be done for? The revenue amounts to, say ten millions dollars, collected and paid out annually; and allow one and a half per cent. for transmitting, as low a rate as it would be done for, and this, on twenty millions, amounts to six hundred thousand dollars a year, a sum equal to our civil list.

But another serious evil is to be encountered in putting down this bank—you deprive the country at once of a circulating medium. Silver and gold cannot be had—and what paper, but that of the United States' Bank, will pass current in every part of the Union? None. You can out-ride, in twenty-four hours, the credit of any other bank in the country. This evil will be most seriously felt in the interior. It will at once check emigration from the North and East to the West. For those who wish to remove will not be able to sell their property; it will fall essentially in value; and, if they should sell, coin not being in circulation, they could not procure any paper money which would pass current to pay the expenses of travelling from Massachusetts to Ohio and Tennessee; and if they should arrive there, they would have nothing to purchase land with. The sales of our land must stop for a time, at least until specie can be brought into circulation, for specie only is taken in payment; this comes now through banks—but the banks will require it all for their own support.

And will not the people inquire, why all this pressure and embarrassment? They certainly will. And will they be satisfied with the answer, that the bank was unconstitutional and could not therefore be continued? No; they will not believe it. They will justly reply, that this state of things ought to have been foreseen and provided for by their rulers, as it might have been. In the ten past years of peace, plenty, and prosperity, which we have experienced, instead of devising a system to take the place of the present bank on the 5th of March, what have the rulers done? They seem never to have once thought of the event that is now about to happen? By the acts of Government the country has, in a degree, been deprived of the capital which might have been here to meet the crisis. About thirty million dollars have been sent out of the country, and much of it in specie, to pay the public debt, when payment was not demanded. All internal taxes have been repealed, and reliance for revenue has been made on imposts and tonnage,

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which are now about to fail us, and that, too, when the Treasury is nearly exhausted. For, after paying the \$2,750,000 to this bank, there will not remain much more than this amount in the Treasury. The revenue bonds outstanding, to the amount of about ten million dollars, will not, cannot, be paid if bank accommodations are to stop. Recourse must be had to loans, the last resort of empty purses and empty heads—and a press for money, and its high price, will render loans difficult to be effected, and subject the Government to a high rate of interest.

These considerations suggest to us the imperious necessity of continuing the operations of this bank, under such restrictions as may be deemed most advisable, and thus to keep in motion the present system of credit, and support the existing principles of doing business throughout the country.

And what are the reasons for refusing a renewal of this charter? Let them be examined, and, unless they are solid and substantial, let them not prevail. One reason assigned is, that it employs a foreign capital, which is injurious to our country.

This is not an objection of any weight; and, if it were, have Congress the power to prohibit the employment of foreign capital in the United States? If we prevent it from being employed in this bank it may go into the State banks, or take any other direction, not prohibited by the Constitution or laws of the country. But it has ever been the liberal policy of this Government to invite foreign capital, and foreigners, to come among us.

Gentlemen seem to consider that portion of this stock, held by foreigners, as having no other connexion with our own citizens than compelling them to pay eight per cent. per annum interest for it.

Let us, for a moment, see how this money, to the amount of seven millions two hundred thousand dollars, owned by foreigners, is employed, and the objection urged on this ground must vanish. It will not be denied but that it is used in trade. And it is wanted here to make cash payments for shipments made to Europe. This enables the American merchant to make prompt payment for the goods he imports from Europe, by which he obtains them, say eight per cent. below the credit price, while he, instead of obtaining this credit in Europe, obtains it at the bank for six per cent. Here, then, is a difference of two per cent. in favor of the American merchant. This, on seven millions two hundred thousand dollars, amounts to one hundred and forty-four thousand dollars a year—in twenty years, to two millions eight hundred and eighty thousand dollars. This is one item saved in retaining this capital in this institution—and \$1,200,000, the sum to be paid by those stockholders for the privilege of continuing their capital in this bank, is another item—and another, larger than either of these, is the advance upon the stock proposed to be subscribed by the United States, which may be estimated at \$2,000,000. These together,

amounted to \$6,080,000, which the Government and citizens of this country will receive by passing this bill. So far, this would be raising a revenue, and not liable to any Constitutional objection.

But, it is said, this capital has an influence upon elections unfriendly to liberty. Whatever may have formerly been the political influence of this institution, the competition of banking business has long since rendered it harmless as a political engine. But, while gentlemen complain of its accommodations being partial, they propose the singular remedy of destroying them entirely; because it has committed the fault of not accommodating everybody, it must now cease to accommodate anybody.

If we have not too much capital, our citizens will find a profitable use for this. That this is wanted and engaged in business is incontestably proved by the dividends which this bank has made, of eight and nine per cent. profit. If the charter shall expire on the 4th of March, this ten million dollars capital, which may and probably will be collected in specie, will be again thrown into circulation here or sent out of the country.

Suppose it retained here, what are we to gain or lose by the experiment?

The scarcity of specie consequent to this operation, will appreciate its value, and, in like proportion, depreciate the price of every other kind of property—say thirty per cent. These foreign stockholders, having seven millions two hundred thousand dollars in specie, will be able to speculate on the distresses of your own citizens. They will be the gainers, we the losers. If they can make by the bargain, as they undoubtedly may, thirty per cent.—this, on seven million two hundred thousand dollars, would amount to two millions one hundred and sixty thousand dollars, which, added to the present capital, would be nine millions three hundred and sixty thousand dollars. This amount, vested in any other bank stock, or valuable property, would continue to yield them eight per cent. profit annually. This, on nine millions three hundred and sixty thousand dollars, amounts to seven hundred and forty-four thousand eight hundred dollars a year—one hundred and sixty-eight thousand eight hundred dollars more, in a year, than they would receive by continuing their capital in this bank. It is evident that a refusal to renew the charter of the Bank of the United States will not prevent the use of foreign capital among us, as has been urged by gentlemen opposed to a renewal. I do not allude to the gentleman from Virginia, (Mr. BURWELL,) he does not consider it an objection that so much of this stock is owned by foreigners. But, let us, for a moment, suppose that, on a dissolution of this bank, this capital goes out of the country; it is owned by proprietors who reside in England, where bullion is fifteen per cent. above their paper currency, and if this seven millions two hundred thousand dollars should be sent to Europe, it would drain nearly all the specie from the country. Unless it can be employed here to more advantage, it will, as an article

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of merchandise, leave the country for a better market. But it will, at any rate, be in the hands of those who may not, after the refusal to renew the charter, feel very solicitous to aid the operations of your Government, or relieve the distresses of the people, by sending this specie into circulation among us. We should require strong arguments, indeed, to induce us to adopt a measure which may at once drive out of the country, or lock up, so large a portion of the specie capital. Whether it goes out of the country, or remains for a year inactive here, the effect upon the community will be the same. The great demand and high price of specie will depress the price of every kind of stock and every species of property; our wheat, cotton, hemp, tobacco, and every article of produce, must suffer a depression of at least ten per cent., perhaps not find a market at any price. The nation will be subjected at once to the loss of a sum at least equal to the amount of the whole capital of this bank. For the amount of produce and merchandise in the country may be estimated at one hundred millions dollars; a loss of ten per cent. would be ten millions dollars, a sum equal to our revenues for one year. By whom is this loss to be sustained? By the merchants? No; it will fall upon the farmers, the manufacturers, and mechanics; your rich moneyed capitalists are safe—nay, they are the only men who will profit by such a state of confusion and distress.

When I advocate a continuance of the present system, I advocate the interest of the farmer, the mechanic, and even the laborer, who alone must suffer most severely, by the experiment of breaking up this bank and your present system of paper credit. Of this we may all be convinced when too late to remedy the evil. The effect it may produce may be entirely different from what the opponents to this bill now believe. Instead of a blessing, it may prove a scourge and a curse to the country. Politicians, we all know, are liable to err in their calculations, and often mistake the real bearing and effect of their measures upon the community. The Turkish Government once devised and adopted an infallible expedient, as the rulers believed, to prevent a scarcity of corn, by prohibiting the exportation of this article. But the consequence of this favorite measure was a famine, want, and calamity, instead of plenty and happiness.

And are gentlemen, who are opposed to the renewal of this charter, quite sure what will be the consequence of stopping at once the operations of this bank? I apprehend not. They all admit it will, for a time, occasion some embarrassment to our citizens and our Treasury, but they differ as to the extent of the evil, and tell us that all the calamity is to be far outweighed by the blessings which are to follow; and among other blessings which are to result, is the check which is to be given to trade. We are told that there is too much credit, and too much trade, that failures are continually occurring, and that although the merchant fail, the farmer bears the loss. A single glance at the manner of transact-

ing business in our commercial towns must convince any gentleman that when a merchant stops payment, he is seldom indebted to the farmer. His credit contracts are with the banks and merchants in town: instead of purchasing produce from the farmer upon credit, the merchant obtains a credit at the bank, procures bills, and is in this way able to purchase from the farmer for ready money; and if the merchant fails, his creditors in town, not in the country, are generally the sufferers. By lessening or destroying bank accommodation, you transfer the credit from the city to the country. Then if a merchant should fail, his creditors in the country, the farmers, would suffer. Should this be the effect of putting down this bank, the agriculturist who now sells his wheat, hemp, cotton, and tobacco, for cash, will be compelled to sell upon credit, and take the risk of failure from the banks and merchants to himself. Is this the manner in which trade is to be lessened by stopping bank credit?

But it has been urged that we have too much paper in circulation. Admit it. The destruction of this bank will increase, not diminish, the quantity of circulating bank paper; and I consider the embarrassment which must immediately follow the closing of the concerns of this institution as the least of the evils the community will experience from a refusal to renew the charter. Congress may indeed prevent the operation of this bank after the 4th of March, but Congress can neither prevent a spirit of trade, nor subdue the passion for speculation. For, while we are debating the expediency of destroying this bank, in order to free the country from the mischiefs of an extended bank credit, we find new banks springing into existence in every direction. We have no less than five bills now on our table for incorporating this number of banks in this ten-mile-square District. And the gentleman from Virginia (Mr. BURWELL) has told us that these applications are an evidence of capital or of corruption, but I consider them rather as evidence of the destroying spirit of speculation, which threatens to stand upon the ruins of the United States' Bank till the country shall be overwhelmed with new emissions of paper from these new manufactories. The banks established by the State Legislatures will scramble for the privilege of filling the chasm to be made by the destruction of the Bank of the United States. Already are they preparing for the patriotic endeavor. Our State Legislatures are to be importuned to become bank jobbers and joint undertakers and copartners in the enterprise. The profits are to furnish revenues sufficient to satisfy both avarice and ambition. Notwithstanding the provision in the Constitution, that no State shall "emit bills of credit," we find almost every State in the Union interested in banks, authorizing corporations to issue bank bills, which, so far as they exceed the capital upon which they are issued, are in the nature of bills of credit. Several States own stock in these banks, and, as such stockholders, are responsible for the payment of these bills. Pennsylvania,

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Virginia, and Vermont, are large stockholders in their State banks; New York and North Carolina have also an interest in some of their banks. The States cannot be restrained, nor is it to be wished that they should be prohibited altogether from incorporating banks. But what difficulties are we to experience in resorting to these numerous and conflicting institutions for the collection, safe-keeping, and transmission of our revenues? The deposits of the Government will render banking profitable to the favorite bank that receives them. The aid of the Government will make this bank superior in funds and credit to any of the others which do not share this solid patronage. This will produce jealousies and collisions of interests between banks in the same State, and thus form cabals against the State and General Governments. It will not stop here, but will extend from State to State. If the States and State banks are to regulate trade in the article of paper money, they may prescribe the terms. To give the preference to their own paper, they may exclude that of any other State from circulation among them, in the same way that the paper of unincorporated banks is excluded by some States, and bills of a certain amount from others.

The great commercial States will have in their power the paper of the small and agricultural States. For where there is most trade, there the most current bills will be the most valuable. The bills of New York and Pennsylvania, from the great trade and frequent intercourse between their capital cities, would be in greater demand than any other; the bills of either State would pass current in the other, and this would give them a credit and currency superior to all other bills. They would, of course, drive the others out of the market. And, sir, it is possible that other banks may attempt to make up in the quantity of their paper the deficiency in its quality and credit, and all may overtrade their capital, discount far beyond their funds, until a general depreciation of their paper shall produce general failure, and universal distrust in all paper credit. It is the duty of the Government, if in their power, to avert such a state of confusion; to protect and preserve the country from such complicated ruin. But we are about to invite and precipitate this destruction by throwing away the only means we possess to prevent it. Stop this bank, and what check is there then to limit the discount of all other banks? They may issue paper to any amount, and without funds to redeem it. There may, and very probably will be, a common interest and feeling among them to uphold each other, until all shall deem it advisable to fall. Hitherto the Bank of the United States, by its large capital, and the amount of its specie always on hand, has confined the discounts of other banks to certain limits, and compelled them to observe some proportion between their loans and actual funds. And in this way it has served as a barometer to ascertain the credit of other banks, as a regulator to keep them within such bounds as might be safe

to the community. But take away this regulator, and the other banks may go on without fear or restraint to loan millions, without having a dollar in their vaults, until all will be reduced to bankruptcy, as we have already witnessed, in some parts of New England. We have been told by gentlemen that this bank has been the cause of the excess of bank paper, which has prevailed in some of the Eastern States. This I deny. What has been the conduct of banks in that quarter? A considerable number of banks were established in the interior of Massachusetts and New Hampshire. And they went on to issue their bills to a great amount, without regard to their actual funds, and without any specie to redeem them. And had these bills circulated only in places where banks were conducted in a manner equally loose and unprincipled, the imposition would not have been readily detected; but when these bills appeared at the branch bank of the United States, their real value was tested; they were returned, and the system of banking without specie or capital was broken up and destroyed. It will hardly be contended that our revenues would have been perfectly secure in these banks. And what assurance have we that they will be more safe in the others? The Government of the United States cannot limit their discounts, inspect their books, or ascertain the state of their funds, or the principles upon which they act. It never can be seriously insisted, that it would be advisable to deposite the public moneys in this manner. It would be offering the revenues of the Government as a bounty for bank factions and bank frauds. And why shall we be driven to make these dangerous, ruinous experiments? We experience no hardships, no real difficulties growing out of our present system. If we continue it, none are to be apprehended. We shall preserve a paper medium, well known and long approved; with which the people of this country are well satisfied. For not a single remonstrance has been offered against continuing the operations of this bank, while thousands of petitioners have solicited Congress to renew the charter. Nothing but considerations of the most imperious nature should induce Congress at this time to refuse a renewal of this charter, and thus compel the extensive moneyed operations of this company to stop at once. The situation of the country is at this period peculiarly unfavorable, if not unequal to such an operation. But a small amount of specie in circulation, and the course of exchange continually lessening the quantity, draining it from the country; a large portion of the merchants' property seized in Europe; our Treasury nearly exhausted; a non-importation about to be adopted; our revenue to be thus cut off; our Army and Navy expenditures to be increased; and, in this state of our national affairs, we are about to destroy all confidence in paper credit; to adopt a measure which must produce general disappointment, failures, and bankruptcy. However unconcerned and secure some gentlemen may feel about the consequences which may result from such a state

of things, I cannot but contemplate them with the most fearful apprehension. Can the people extend their confidence to the wisdom and expediency of measures which, instead of promoting the general welfare, produce general distress? Why, sir, we seem to cherish as little regard for the opinions of the people as if they had nothing to do with the Government.

But the remedy for all the evils growing out of this breaking down measure, is to be found, we are told by some of its advocates, in the establishment of a new National Bank upon the ruins of this. The country is to be subjected to the spasms and throes of death and birth, at the same instant, in order to preserve, by this bold practice, its Constitution. This is a refinement in State quackery, which must prove fatal to the patient.

Are the advocates for a National Bank quite sure that they could obtain a law of Congress for its establishment, if the United States Bank were out of the question? I apprehend not. Many serious, if not insurmountable difficulties would be found to exist. When an increased demand for money should have rendered it scarce, it would illy comport with that discretion and intelligence which ought ever to distinguish the proceedings of Congress, to increase the scarcity of this article by enlarging the immediate demand for it. While \$24,000,000 would be employed in closing the concerns of one bank, \$30,000,000 are to be called for to commence the operations of another. This would be levying a requisition upon all the circulating medium of the country at once. It would create a demand which could not be satisfied. If this objection could be removed, there are others still stronger to be obviated. It would be found difficult to convince the States concerned in banks that their interests are to be promoted by a great rival bank, with a capital and ability equal to the management of all the banking business in the country. Will the great commercial States of Massachusetts, New York, and Pennsylvania, accede to this measure? They will not, unless they disregard all the profits they might derive by uniting to give credit and currency to the paper of their own banks; unless they neglect to improve the advantage they would in such case have over the other States. If some States now recommend to their Representatives to oppose a renewal of this charter, would they be less attentive to their own interests, and more sparing of their advice, when a National Bank should be attempted? No, sir; nor would their recommendations be less regarded than upon the present occasion. If a bank, with but \$10,000,000 capital, has awakened State jealousies, and roused to action State interests against it, what are we to expect when a new bank of \$30,000,000 should be proposed? That such an institution could be established without opposition? No; it could not succeed against the opposition it must and would encounter. Put down the Bank of the United States, and however essential an institution of the kind may be found, either to furnish a circulating medium which shall pass current throughout the United States, or aid in the administration

of the finances, the Government will not have the power to establish it. A law for the purpose would never be sanctioned by a majority of both Houses of Congress. And if we cannot continue the present bank upon any terms, no other ought ever to be authorized by Congress. For to what a state of things might a new National Bank, with twenty or thirty millions capital, reduce the country at the expiration of twenty years from this time? Its stock might get into the hands of foreigners, or be owned by those who would be found in the opposition to the Administration; and, surely, this would furnish reasons as powerful for putting down the National Bank as the Bank of the United States. And the country would be compelled to submit to another general shock, and perhaps destruction, of paper credit. If we have not stability and discretion sufficient to continue and support such an institution, we most certainly should not undertake to establish it. For we are exposing the country to alternate affluence and penury—making experiments ruinous to the people and destructive to the Government.

Some gentlemen tell us that this corporation can close its concerns without occasioning any embarrassment in the community. If the trial is to be made, I most sincerely wish they may not be mistaken; but to me it appears utterly impracticable. The gentleman from Virginia (Mr. BURWELL) seems to think that the shock will be slight and scarcely perceivable; that this angry cloud will be disarmed by the conducting powers of the State banks. But can he assure us, that such will be the result from any actual experiments which have ever been made in this branch of philosophy? I believe not. And it is to be apprehended, that even if this cloud should disappear, clouds of discontent and faction will succeed, and may soon be seen hurrying and chasing each other over the political firmament of America, until the tempest comes on which shall close forever the prospect of our united strength and happiness.

The times are dangerous for national experiments. When we look around us we find the political passions of man rising to madness; long established Governments breaking up their strong foundations, and the world almost deluged with blood and warfare; we alone stand upon the narrow isthmus of peace and prosperity. And is it for us to complain; to be discontented with the pre-eminent happiness we enjoy; to hazard our present enviable condition upon the doubtful result of this great and sudden change in the administration of our national finances? No sir. It becomes us to beware of innovations; to weigh well the consequences of embracing any new system, or abandoning an old one. But, sir, I will not detain the Committee longer. I have already occupied more of their time than I intended; but a sense of duty has compelled me to state my opinion at length upon the important question before us. And if the charter of this bank is not to be renewed or continued upon any conditions, I am ready to hope that my apprehensions of the



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effects, that the refusal will produce in this community, may prove groundless; that the dissolution of this institution may not be the organizing of ruin to a considerable portion of the country.

Mr. SMILIE spoke a few minutes in reply to Mr. FISK.

Mr. SEYBERT.—It may be said that this subject has been exhausted by the discussions of the ablest politicians of the country. I will premise, the remarks which I shall offer are intended solely to justify the vote which it is my intention to give on this momentous occasion.

The question pending the United States' Bank has excited a peculiar interest throughout this nation, more especially in our seaports. The dissolution of this institution, which, from its limitation, will expire on the fourth of March next, has been portrayed in colors of the darkest shades, and the distresses which many maintain will be consequent to that event, call seriously for a fair and deliberate investigation. I hope, sir, I shall be pardoned for imposing on the patience of the House, when it is recollected that the community which I represent have employed four-tenths of the capital stock of the United States' Bank. If evil consequences are to attend the dissolution of this establishment, or if beneficial results proceed from its continuance, in either case I must feel myself essentially interested; it is therefore my wish to be distinctly understood upon the important principles which have connexion with the great question now before us.

At the last session of Congress I presented the memorial of the President, Directors, and Stockholders of the Bank of the United States; at that time I entertained no positive opinion on the subject; the discussions which took place in the committee to whom the memorial was referred, necessarily, as a duty on my part, excited that attention which the importance of the question imperiously demanded. Under circumstances of doubt, I voted in favor of reporting a resolution in support of the bank, for the purpose of giving to the establishment every chance which reason could urge; at the same time reserving to myself the right to pronounce a final decision, according as policy and expediency, but more especially as principle should dictate. I will admit, sir, that this is not the time or place to institute the general inquiry, whether banks are or are not beneficial to a nation? Because, whether the charter of the United States' Bank be renewed or not, the several States, who have the unquestioned authority to incorporate bank establishments, have already created many, which it is not in our power to control. I do not hesitate to declare, though many persons in the United States are decidedly opposed to a banking system under every possible circumstance, I am not of this class. Experience has proved, in a manner very satisfactory to my mind, the advantages which are derived from the banks when they are impartially directed, and when the accommodation afforded by them is prudently employed; the great difficulty seems to be to confine the sys-

tem within its proper limits. I understand the proposition as applicable to the agricultural, manufacturing, and commercial interests of the United States.

For my proofs of this proposition, I will not rely upon the famous Bank of St. George, at Genoa, whose authority, by a gentleman from New York, (Mr. Fisk,) has been considered of much weight. I will recall to the mind of my friend the remark of an intelligent traveller, who, when he visited this bank of antiquity, exclaimed: Here lies concealed the enigma, whether the bank possesses millions of millions, or whether it is indebted millions of millions! He concludes, Upon this important secret rests the safety of the State. Unhappy State, say I, whose safety depends upon a secret concealed within the vaults of a bank. Perhaps to a development of this secret may we attribute the present servile condition of the people of the once far-famed and powerful Republic of Genoa.

I am one of those who do not entertain fears in consequence of foreigners becoming the stockholders of our banks, provided, on all occasions, you deny them the privilege of voting either directly or by proxy. I would even go so far as to prohibit their being original subscribers to any stock which may be created in our territory. The States do not object to a foreigner holding the stock of their banks. Any political consequences which can arise from such an interest will exist without the General Government having power over them. For the present I am opposed to the exclusion of foreign capital from our country, because it is not established that we possess a surplus of our own, and that the introduction of more from abroad depresses that which is immediately the property of our citizens; the prices which are at present paid as the interest for a borrowed capital convince me that it would be impolitic at this time to adopt the principle of exclusion.

Though I have admitted, that, under certain specific provisions of the law, foreigners should be permitted to hold the stock of the Bank of the United States, it is not thence to be inferred, because they have become the stockholders, they are to be confirmed, from time to time, in the exercise of an exclusive privilege in our country.

Sir, I am decidedly opposed to a prominent, and what to me appears to be a very dangerous feature in the bill now under consideration. I allude to the eighth section, which admits of an increase of the present capital stock of the bank. Adopt this provision, you will thereby create an Herculean power, which will have at its mercy all the minor institutions of the States; thus constituted, it can oppress and destroy them, as whim or interest may dictate. The steps which have been taken preparatory to a dissolution of the present bank, it is said, occasion much embarrassment, and threaten with ruin many of our citizens; if the present capital of ten millions can thus affect society, who will pretend to accumulate present evils, or risk entailing misery on posterity, solely for the purpose of a temporary

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gain to the Government? In this question Pennsylvania is deeply concerned; she has several millions of dollars invested in her banks; this to her is a valuable source of revenue; upon this may she predicate much of her future prosperity; hence will she derive the funds requisite for future internal improvements; but if you fill up the blanks in this section with a considerable sum, all these prospects will be blasted forever; you will thereby destroy the tree from whose ramifications were to emanate the blessings of peace and the sinews of war. Those of her Representatives who may deem it politic and Constitutional to vote for a continuance of the character of the United States' Bank, ought surely to oppose any increase of the present capital; we have been told that that which now exists has been found sufficient for all purposes, at a time when our commerce was much more extensive than we have reason to suppose will soon again be the case.

If, as some say, the bank by its capital, is to facilitate the fiscal operations of the Government, I am decided this should never be greater than what will be barely sufficient for this purpose. If you go further, you place in the hands of the Government an engine which may destroy the freedom of this nation. We are further told, that in case of war, the Government may derive advantage, in the form of loans, from the bank; admitting this to be the fact, it is very evident, under the uncertainties of a war, the demands of our merchants upon the banks will diminish, so that the bank capital already created throughout the Union may be very readily had for the exigencies of the State. If a greater sum shall be found to be necessary, the patriotic zeal of your citizens will prove itself all-sufficient to supply your wants in a cause which will be deemed just and honorable by the nation.

I am also opposed to the United States having the right in any manner to appoint any of the directors of the bank, not so much on account of any influence which the Government might derive from such appointment, as to prevent ruinous consequences to all who may be concerned. Who will such directors generally be? Certainly persons who need the aid of the banks, for none others would make application for the appointments; when they are appointed, they will be subservient to the views of such of the directors as are chosen by the stockholders in their places; they will lose sight of the public welfare; they will be interested by the accommodations which they may find necessary for their purposes; to obtain these, they will yield to their associates; instead of being the guardians of the public treasure in case of danger, they will remain silent until a spontaneous explosion of the bubble solves for the world the important secret of the insolvency of the institution. Sir, notwithstanding many arguments may be adduced in support of a banking system, no degree of importance whatever, whether derived from the facilities offered to the Government by bank establishments, or from the considerable sums which may be

thereby had for the Treasury, in consequence of sales which may be made of the stock belonging to the nation, or of the bonus to be given, shall induce me to vote in favor of a measure which is not grounded upon strict Constitutional principles.

The history of the banks in our country informs us, that the one usually termed the Bank of North America was the first establishment of the kind which received the sanction of the Government. This institution was incorporated by an act of Congress, in the month of May, 1781, under the authority of the "Articles of Confederation." The present Bank of the United States was incorporated by an act of Congress, on the 25th of February, 1791, during the operation of the present Constitution of the United States.

Without an attempt to examine every hypothesis, which has been or which might be proposed, respecting the constitutionality of the principle, I will content myself with the statement of the case, such as it appears to my mind. The first public act which I performed, as a member of the Congress of the United States, was, to swear solemnly that I would support the Constitution of the United States. It therefore is my duty to examine and consider its precepts, according to the best of my ability.

The "Articles of Confederation" and the present Constitution of the United States do not differ as regards any power delegated by the States to Congress, touching charters of incorporation. I can never persuade myself that the Constitution was intended other than to have a definite meaning; or that it was ever contemplated to speak an equivocal language; ambiguity arises solely from the misconceptions of its interpreters; it is very plain and of easy comprehension, especially as it relates to the present question, since it is totally silent on the right to create corporations—its wisdom is further illustrated by the special provision for the only exclusive privilege which is consistent with a free and equal government, and that is in favor of genius.

The powers delegated by the States are special and defined, and, it is expressly declared by the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This language needs no interpretation. I cannot for a moment permit myself to suppose, that the patriots who were tested during the long continued uncertainty of the most important events of our Revolutionary period, and to whom was ultimately assigned the right and power to construct the instrument which is to guide us in the political labyrinth—that they intended this their great work should alone be explicable by that refined reasoning to which common sense is a stranger. I never can admit. Surely that which they framed for the good and security of every individual in the nation, must be expressed in a manner to be understood by ordinary men, and those whom it was intended to direct. Sir, if simplicity was not originally contemplated by the framers of the

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Constitution, why the imposition on the people in publishing it to the world? Was it not a prodigal waste of labor and materials, to furnish every citizen of our country with a copy of that which can only be understood by professional men, or such as are eminently skilled in scholastic research? It had better remain a secret, concealed amongst the musty rolls in the archives of State, than be a puzzle for mankind. As long as this instrument is preserved pure and untarnished, it will receive a becoming respect from your fellow-citizens—it will be regarded as “the stupendous fabric of human invention.” Remember, the present argument, in several important points of view, affects posterity in common with ourselves. You had better commit the unintelligible jargon to the flames, than by the agency of construction neutralize wisdom by folly. Sir, if we have a Constitution, which the people cannot understand, I then say, cut the original into slips, and provide the means for a better; or if that is not to be done, and we are to be ruled by the iron hand of power, in that case, as one of the American people, I will pray you to be graciously pleased to grant a plain bill of rights for our better government.

If we look back, and attentively view the occurrences which took place, when the law incorporating the present Bank of the United States was enacted, we shall find our reasoning supported and confirmed by many important circumstances; we shall then perceive, that the act of incorporation was opposed on Constitutional ground, by men who were and continue to be esteemed for their talents, political skill, judicial knowledge, probity and patriotism, and it has been admitted, that the arguments formerly urged are unanswerable. That the power to create corporations was never intended to be ceded on the part of the United States, is proved beyond all manner of contradiction; for we are told by the highest authority, by one who was a member of the General Convention; that it had been proposed to cede to Congress the power to create corporations, and that the proposition was rejected, after a deliberate discussion. In my opinion this decision is in proof of the sagacity and wisdom of those who made it; it was highly justifiable to retain this power to be exercised by the States; because, corporations are generally founded on circumstances, which are entirely local—as such, they can be better understood by the Legislatures of the respective States, than by that of the General Government.

The experience of every session proves that the decisions of Congress vary with the men who at different times compose that body; therefore, the act of February, 1791, can have no force in settling the principle contended for.

I have heard it urged, that the States have recognised the constitutionality of the United States' Bank, by their laws. I know of no law in any of the States, which declares this charter Constitutional. Were it even proved, that several of the States had published this declaration, with me it would signify nothing, unless the sanction of two-

thirds of the States was thus had. On a former occasion, several of the States were induced, from peculiar circumstances, to relinquish for a time their right in favor of a particular case—I allude to the first establishment of the Bank of North America. If this had been intended to decide this very important question, without any reservation of their power in other cases, they would have expressed it in the most positive and unequivocal manner.

Sir, it may be asked, how did the Congress, whilst acting under the “Articles of Confederation,” incorporate the Bank of North America, though their powers were no more extensive than those of the present Congress? We shall not lose by this investigation—they declared that “the exigencies of the United States rendered it indispensably necessary that such an act be immediately passed,” and, at that period, the Board of War confessed they had not money sufficient to pay the expense of forwarding an express to the Commander-in-Chief of the Army! Notwithstanding such urgent necessities on the part of the General Government, they were too conscious of the rights of the States to attempt an usurpation of authority, or to pretend to force this act without their sanction; accordingly, we find the resolution by which this bank was established followed by another, which recommended to the Legislature of each of the States the necessity to pass such laws as they judged requisite for giving the ordinance, by which the subscribers to the Bank of North America were incorporated, its full operation; every provision in the charter of this bank, to have full effect, was recommended to the Legislatures of the several States for their approbation. (*See Journals of Congress for 1781, vol. 7th, p. 257 and 258.*)

It is a well known and an important fact, that the subscribers to the Bank of North America did not rest satisfied of the authority of Congress to incorporate them; subsequently to the original act of incorporation, they accepted from the Legislature of Pennsylvania a charter by which their privileges were very much abridged.

Some maintain, the States having made it penal to pass counterfeits of the notes of the United States' Bank, is in proof of their recognising the constitutionality of the institution. No one will pretend, that these laws were intended other than to guard the people against fraud. These statutes were enacted without any connexion with or reference to the principle, upon which the original act was founded. It is but too well known, notwithstanding these salutary provisions, that counterfeit bank notes of every denomination are in daily circulation. I will ask, what would be the case if such laws had not been passed by the States? Sir, if it requires all our care to prevent an inundation from such bank paper, as is acknowledged to be genuine, for Heaven's sake do not risk the security of the people, by an indirect sanction of such as is known to be spurious!

I have often heard the constitutionality of a National Bank defended, upon the ground of its being *absolutely necessary* to the fiscal operations

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of the General Government. A friend from New York, (Mr. Fisk,) said he "would demonstrate that this institution was *indispensably necessary* to the fiscal concerns of the Government." I confess if he could do this, he would go far to remove an important difficulty. If there be higher authority, whereon to rely for his proofs, than the officer who is at the head of your Treasury Department, he might have succeeded. I pledge myself upon the statements of this officer to demonstrate, that this bank is not even *necessary* for the fiscal operations of the Government. Upon this plea, it is attempted to be justified by the seventeenth article of the eighth section of the Constitution of the United States, which gives to Congress the power "to make all laws which shall be necessary and proper for carrying into execution" the several specific powers delegated to Congress by the States. I never did doubt for a moment the *convenience* of a bank to the moneyed transactions of the Government. I was often induced to believe, that a bank, *sanctioned by the General Government, was necessary* for these purposes. I am now confirmed in a very different sentiment by the Treasury report, made the third day of January, 1811. In the eleventh page of that report we are told, it is one of the duties which are assigned to a clerk in the Treasurer's office, to keep a "bank cash book, wherein an account is opened with every bank in which the United States have money deposited. In 1798, the number of these were five; they are now augmented to twenty." The establishment, constituting the United States' Bank and its branches, consists in all of nine banks; consequently, by the statement just made, it is proved the Treasury Department has been doing business with eleven banks, other than those sanctioned by Congress. The same report states, that this business is transacted in all the banks upon precisely the same plan. We have never been told of any losses having been sustained in any of them. Why then pretend, that it is impossible to transact this business through the agency of the State banks, when we have the best authority for asserting, that this has been done already in a majority of cases with the greatest success, facility, and certainty? That no advantages, which are peculiar, can be derived to the nation from the United States' Bank, as respects the collection of the revenue, the safe-keeping of its specie, or the transmission of its moneys from place to place, will be made evident by the same excellent authority. It is there stated, that considerable sums, to the credit of the Government, are deposited in the State banks, even in cities where the mother bank and its branches are situated. On the seventh of January, 1811, very considerable sums belonging to the Government remained in the Manhattan Bank of New York; the Bank of Pennsylvania in Philadelphia, and the Bank of Columbia in Georgetown, District of Columbia. As to the transmission of money, we are told, in the same report, that the deposits in the Manhattan Bank arise from collections of the revenue in the States of Rhode Island and Connecticut; and that those in the

Bank of Pennsylvania occur from the payments which are made for public lands into the banks of Ohio and Kentucky; from these it is transmitted to the branch bank of Pennsylvania at Pittsburgh, and thence it passes to the Bank of Pennsylvania in the city of Philadelphia, where it remains subject to the drafts of the Treasurer. From this we perceive that collections and transmissions of money for the benefit of the Government are made without the aid of the United States' Bank or its branches, and that through a considerable extent of country, from one extremity of the States to the other. After this will any one pretend to urge the absolute necessity of the United States' Bank?

It is said, all agree that banks are necessary for the collection of taxes, but that of the United States is not absolutely necessary for this purpose, since these operations can be and have been performed for the General Government by the State banks. Sir, I deny the position, and will maintain that for this purpose no bank whatever is required. I will ask gentlemen who maintain this doctrine, to name to me the banks which are employed to collect the taxes which are levied by the States? I know of none, and I believe it impossible to point out a single instance where the States make use of their agency.

Sir, I will for a moment permit myself to suppose, notwithstanding the well founded objections to the establishment of a bank under the authority of the General Government, Congress shall nevertheless deem it expedient to renew the charter of the present United States' Bank, or establish, what some may fancifully reconcile to themselves by the title of a National Bank; it then becomes a question, how the States will receive the act? whether they cannot render its provisions abortive? That many of the States are hostile to a bank, authorized by the General Government, is evident from numerous facts; for proofs we may refer to the acts of the Georgia Legislature, by which the bank capital at the branch at Savannah was made liable to taxation. North Carolina has taxed the capital of her banks—the Legislature of New Jersey passed but a single act at the last session, that was to levy a tax on bank capital. No one can pretend that the disposition of Virginia or Maryland is very favorable to a pretended National Bank. I can state upon the best authority, that it was a subject of consideration with the Legislature of Pennsylvania, during the last winter, to tax the capital of the mother bank in Philadelphia; they did not proceed, because, they relied on the refusal of Congress to renew the present charter of the United States' Bank. The taxation of the capital stock of this bank is to be looked for on the part of the States in which the mother bank and its branches may be established; because, the States generally requires a *bonus*, or in other words they raise a tax from the banks which they themselves have sanctioned; in many instances the amount has been very considerable. We cannot suppose the States will hesitate to tax the United States' Bank, because, if they do, they will act unjustly towards

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such of their immediate citizens as have invested their capitals in the stock of State banks. A partial taxation is contrary to the spirit and letter of our constitutions. The States having the right to tax the institutions which you may sanction within their jurisdiction, they have it in their power to render inoperative the statutes which you may enact on this subject—they may tax to an amount which shall equal the dividends arising upon the capital. Who can pretend that banks will do business without the prospect of an handsome profit? Thus disposed, the States may place the United States in a very unpleasant situation. Let us avoid every possible source of discord. The General Government may be reduced to the dilemma, either to relinquish a pretended right, or to pay tribute to the States, to permit them to exercise an authority which is unquestionably an attribute of sovereign power. This would constitute an epoch in the political annals of our country. I hope such absurdities will not be committed. We may avoid them, by a strict compliance with the principles of the Constitution of the United States.

The Committee rose, about four o'clock, and obtained leave to sit again.

FRIDAY, January 18.

A motion was made by Mr. FISK, that the House do now adjourn; and the question being taken thereon, it was determined in the negative—yeas 6, nays 59.

On motion of Mr. BACON, the House proceeded to consider the resolution submitted by him on the 31st ultimo; and the same having been again read, was concurred in.

Mr. DAWSON presented to the House a report of the Secretary of War, to the Chairman of the Committee on that part of the President's Message which relates to land forces and fortifications, and of moneys required on account of fortifications during the present year.—Ordered to lie on the table.

Mr. MORROW, from the Committee on the Public Lands, to whom was referred the bill from the Senate "to authorize the surveying and making of certain roads in the State of Ohio, as contemplated in the Treaty of Brownstown, in the Territory of Michigan," made a report; which was read, and, together with the bill, committed to a Committee of the Whole on Monday next.

Mr. PITKIN presented a petition of the merchants of New Haven, in the State of Connecticut, to the same effect with the petition of merchants of New York, presented the 13th ultimo; which was referred to the Committee of the Whole on the bill supplemental to the act concerning the commercial intercourse between the United States and Great Britain and France, and for other purposes.

Mr. SHERFFEY, one of the members from Virginia, stated that it was his intention to make a motion to the following effect: "That the injunction of secrecy imposed on the secret proceedings of this House during the present session be now

taken off;" and having first asked the decision of the Chair thereon, Mr. SPEAKER decided that it was not in order to make the said motion with open doors.

From which decision of the Chair, an appeal was made to the House; and, on the question, "Is the decision of the Chair correct?" it was resolved in the affirmative—yeas 76, nays 38.

Mr. SHERFFEY then suggested that he had some communications to make which required secrecy. On which, the galleries were cleared and the doors closed; and having remained so for some time, were again opened.

## NAVAL ESTABLISHMENT.

Mr. FISK moved that the House do come to the following resolution:

*Resolved*, That a committee be appointed to inquire into the expenditure of moneys appropriated for the Navy Department since the 1st of January, 1804; and also into the situation and management of the navy yards belonging to the United States; and that they report thereon to the House.

Mr. SWOOPÉ moved to amend the said resolution by striking out the words *appropriated for the Navy Department since the 1st January, 1804, and also into the situation and management of the, and the words belonging to the United States*; and to insert the words *at the* before the words *navy yards*, and the words *in Washington, from the establishment thereof*, after the said words.

Mr. HAVEN moved to amend the said amendment, by striking out the words *in Washington*, and inserting the words *in the United States*; and the question being taken, it was determined in the negative.

A division of the question on Mr. SWOOPÉ's amendment was then called for by Mr. FISK; and, on the question to strike out, it was determined in the negative.

The resolution was then concurred in as originally proposed; and Mr. FISK, Mr. BASSETT, Mr. MILNOR, Mr. HAVEN, and Mr. KENAN, were appointed the said committee.

## DISTRICT OF COLUMBIA.

Mr. VAN HORN offered the following resolution:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of establishing a government for the said District, and that they have leave to report by bill or otherwise.

Mr. TALLMADGE objected to giving leave to report by bill. He had no objection to the inquiry, but he was not willing, on a subject with the merits of which he was so little acquainted, to give leave to report by bill. He therefore moved to strike out that part of the resolution.

Mr. VAN HORN said it had been shown by experience that Congress either could not or would not attend to the District, the concerns of the nation requiring more time than they could devote to them. A bill had been once reported by a committee of the House on the subject some years ago, and the same course might be pursued now. A report by bill would give a more comprehensive view of the subject.

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Mr. LEWIS said that, with the gentleman from Connecticut, he should prefer a detailed report. He had heard of no application to the House from any part of the District for a Legislature, nor did he see the necessity of it; but he had no objection to vote for an inquiry, though he had objection to authorizing a committee to report by bill.

Mr. TALLMADGE's motion was carried—43 to 30.

Mr. VAN HORN, considering the agreement of the House to the alteration just made in his motion, as a virtual rejection of his proposition, asked and obtained leave to withdraw his motion.

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The House again resolved itself into a Committee of the Whole on the bill to renew the charter of the Bank of the United States.

Mr. BURWELL's motion for striking out the first section being still under consideration.

Mr. P. B. PORTER.—Mr. Chairman: As this bank has excited so extraordinary an interest in every part of the United States, and particularly in the State which I have the honor to represent; as I am apprehensive, from what took place yesterday, that I shall be found, on this question, in opposition to a majority of my colleagues; and, (what will always be an imperative motive with me) as I think this bill aims a deadly blow at some of the best principles of the Constitution, I feel it my duty to state to the House the grounds on which I shall be constrained to vote for striking out the section now under consideration.

I acknowledge that I had not, until lately, paid any particular attention to the question of the constitutionality of this institution. I stand, therefore, in this respect, on safer ground than the respectable member from North Carolina, (Mr. MAÇON,) for I have no reason to suspect myself of any long-rooted prejudices on the question. The Bank of the United States was established at a time when I was not in the habit of troubling myself with such questions. I had been accustomed to think of it as an institution, the constitutionality of which was conceded by common consent. But, sir, when the question was again stirred, I felt it my duty to give it a thorough investigation before I should sanction it by my vote. I have given it, if not a thorough, at least a candid and impartial examination; and the result has been, a full conviction that we have no right to incorporate a bank upon the principles of the bill on the table, or rather, upon the principles of the original charter, which this bill proposes to renew. The ground of my objection is, that it assumes the exercise of Legislative powers which belong exclusively to the State Governments.

I shall not touch the question of the expediency of this bank, much less the expediency of banking generally. If I were competent, which I confess I am not, to the task, I should think it a very unprofitable one, to follow the gentleman through all the mazes of the banking system—a system, sir, about the various and important operations and effects of which on civil society, aside from

a few obvious truths which it furnishes, I have found that those gentlemen who have professed to understand them best, have differed most. As I propose to confine myself to the Constitutional question solely, I hope I shall be allowed to take a little broader range on this point, than has been taken by the gentlemen who have preceded me.

I am aware how ungracious Constitutional objections to the powers of this House are with those, and there are many such, who believe that the powers of the Federal Government are, at best, too contracted; and who would be glad to see all the State rights merged and sunk into a consolidated government. Whatever may be my speculative opinions on this subject, I can never be influenced, by motives of expediency, to swerve from my allegiance to the Constitution. This sentiment is indelibly fixed on my mind, and I trust it is a common one to the members of this Committee. That, in adhering strictly to the obligation we have taken, to support the Constitution of the United States, we not only perform a sacred duty to ourselves, but we render a better service to the real and permanent interests of our country than we could possibly render by a departure from that obligation; even though that departure were to avert so serious a calamity as a general bankruptcy—a calamity which, in order to alarm the timid, has been held out as the inevitable consequence of a refusal to renew this charter.

I should be surprised at the general acquiescence which seems to have been yielded to the constitutionality of this institution, did I not believe that others had been as superficial in their examination of the subject as I had myself. When objections are made to the constitutionality of a law, the people, in the cursory views which they are accustomed to take of such objects, are apt to adopt, as the tests of its constitutionality, the powers of the State and Federal Governments collectively; and if they find nothing in the law offensive to the principles of civil liberty, nothing ungenial with the spirit of a Republican Government, they rest satisfied, and do not trouble themselves with nice distinctions between the powers peculiar to the one or the other of these Governments. Such reasoning would, however, ill become the sagacity of this House.

One of the most serious dangers with which our Government is threatened, and it is a danger growing out of the very nature and structure of the Government itself, consists in its tendency to produce collisions between State and Federal authorities. The Federal Government, as was observed by my learned colleague (Mr. MITCHELL) is, *imperium in imperio*, a government within a government; and the misfortune is, that there exists no friendly third power to decide the controversies which may arise between these two great, independent, and, in many respects, rival authorities. The public peace must be kept, if kept at all, by the conciliatory dispositions of the parties themselves. As then we have a common interest in the preservation of both these Governments—as we are as well the subjects of the im-

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perio as of the *imperium*, we ought to act with great circumspection and delicacy in the assumption of powers which do not clearly belong to us. It is better to forego the exercise of powers to which we are entitled, if the exercise of them is not very important, rather than hazard the assumption of doubtful ones, the fatal consequences of which my honorable friend from Virginia (Mr. BURWELL) has so justly deprecated.

The great line of demarcation between the powers of the State and Federal Governments is well understood. The powers of the State Governments extend to the regulation of all their internal concerns: those of the Federal Government to the management of all our external relations—external as regards the individual States, as well as the States in their collective capacity. The general ideas upon which our Republic is founded, are these: That small territories are better adapted to the successful administration of justice than large ones. In a Republic, where the people are the sovereigns and source of power, it is important that, in order to enable them to execute this power discreetly, they should possess correct information in relation to the character and conduct of their rulers, and in relation also to the character of the measures which they pursue, or ought to pursue; and this information is better attained in a small than in a large territory. The individual States have therefore reserved to themselves the exclusive right of regulating all their internal, and, as I may say, municipal concerns, in relation both to person and property. But a single State may be inadequate to its own protection against foreign violence; it may also be unable to enforce the observance of proper rules and regulations for carrying on its foreign trade and intercourse. The Confederacy of the States is therefore formed for the purpose of attaining these two objects, namely, the regulation and protection of the trade and intercourse of the States with each other and foreign nations, and their security against foreign invasion. It has some other objects in view of minor consequence, and immediately connected with these principal ones. The Constitution of the United States is the basis of this confederacy; and it is only necessary to read the Constitution to perceive that it is nothing more than a delegation of specific powers for these specific purposes, and that the general sovereignty of the States over their respective territories is expressly retained by the States.

But, sir, independent of these specific powers and duties of the Federal Government, it has another and distinct set of powers and duties to perform and execute. The national domain, as it has been called, embracing the lands acquired by the Revolutionary conflict; the lands since purchased of foreign nations; and the lands ceded by the several States to the General Government, belong to the United States in their federate capacity; and no individual State, as such, has any claim to or jurisdiction over them. As to these lands the powers of the United States are sovereign, independent, and complete: and the Congress of the United States is the only legitimate

authority for the exercise of this sovereignty. The powers of Congress, then, in relation to these territories, include the powers of both the Federal and State governments, in relation to the States. I have adverted to this branch of the powers of the Federal Government as a means of dispelling the obscurity which has been thrown over the Constitutional question, to which I shall soon come, by confounding the powers of Congress over the States, with their powers over the Territories. Arguments, to which I shall have occasion to advert in the course of my observations, have been used to justify the exercise of particular powers within the limits of the States, from our acknowledged right to and practical exercise of similar powers within the Territories.

In discussing Constitutional questions, then, we lay down these axioms:—That in relation to the territories, the powers of Congress are supreme and exclusive; that in relation to the States, they are specifically defined and limited by the Constitution—and that we have no right to exercise, within the limits of a State, any power as resulting from the general rights of sovereignty; because that sovereignty belongs to the States and to the people, and not to the Federal Government. To show that these two last positions are correct, I will read the tenth article in the amendment of the Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people."

As then, the incorporation of this bank involves the exercise of Legislative powers within the jurisdiction of the States, in relation to the rights of property between the citizens of those States; and as no power to incorporate a bank, *eo nomine*, is to be found in the Constitution, it would seem sufficient for us to rest the argument here, by a mere denial of the power, and to call on the advocates of the bank to show its constitutionality. An attempt to prove this constitutionality has been made—not, however, sir, by arguments advanced by gentlemen on the other side of the House in their places, (for they have, so far, observed, and I understand that they will continue to observe, a profound silence on this question,) but by arguments which have been gratuitously introduced, by the agent of the bank. I allude to the pamphlet which has within a few days past been printed and distributed among the members, containing the celebrated argument of General Hamilton, "on the constitutionality of a National Bank." As that pamphlet is *de facto*, if not *de jure*, before the Committee, I will, if the Committee will indulge me, attempt to examine some of the principal arguments contained in it, and I will also notice some additional ones, advanced yesterday by my honorable friend and colleague on my left (Mr. FISK.) In the course of the observations which I have to submit, I shall, without doubt, repeat arguments and remarks made by the gentlemen who have preceded me, and others which are familiar to the members of the Committee. My excuse must rest in the difficulty of taking a connected view of the subject, without

such repetitions. If I shall be so fortunate as to throw a single new ray of light on this important question, I shall feel amply remunerated for my trouble, and I shall think the time of the Committee not altogether misspent.

The first argument in this pamphlet is founded on the sovereignty of the powers of Congress. The Federal Government is said to be sovereign as to all the objects for which that Government was instituted. A sovereign power includes, by force of the term, a right to all the means applicable to the attainment of the ends for which that power is given; and therefore Congress may, in virtue of their sovereign power, create incorporations for attaining the ends or objects of those powers.

This argument is founded on what the logicians call *petitio principii*, or begging the question. The proposition, that the Government is sovereign, is assumed, to prove that it possesses the attributes of sovereignty: or, in other words, the fact of sovereignty is assumed, to prove that sovereignty. If the position that the powers of this Government are sovereign as to all the objects of them, be proved, I will concede the consequence, to wit: that we have a right to establish corporations to attain these objects—but I deny the fact of sovereignty. The acts of Congress, it is said, are declared by the Constitution to be the supreme law of the land: and the power which can make the supreme law of the land, is necessarily a sovereign power. But I deny that this is a correct definition, or exposition of sovereignty. It is not the high nature of an act, nor the authority of the act, that stamps the character of sovereignty on him who performs it. The sheriff of a county who puts a man to death, under the sentence of the law, executes an act of as high import and authority as human power can execute; and yet the sheriff of a county is not therefore a sovereign. His authority is a mere delegated authority—his act is a mere ministerial, mechanical act. The idea of sovereignty imports the exercise of discretion—of judgment—of will. It is of the very essence of sovereign power, that you may execute that power, or not execute it—that you may execute it when you will, and how you will. A sovereign power, as to any object, includes a right to any means, and all the means applicable to the attainment of the object. But, sir, do Congress possess sovereign powers, or, what is the same thing, discretionary means, as to the attainment of the objects of this Government? No, sir. The Constitution is not a general authority to Congress, to attain the objects for which the Government was established; but it is an enumeration of the particular powers, or means, by which, and by which only, certain objects are to be accomplished. If the powers of Congress were sovereign, they would of necessity comprehend all the means applicable to the attainment of their objects; but inasmuch as they are specific and circumscribed, that very circumstance proves that they are not sovereign. The people of the United States are the true sovereigns of this country. From them all power emanates, and on their will all the au-

thority of this Government depends. The powers of the Federal Government are mere delegated chartered authorities; and in the exercise of them we are tied down to the letter of the Constitution. We have, to be sure, a certain latitude of discretion allowed us, within the letter and pale of the Constitution; and so far we may be said to possess a sort of limited qualified sovereignty. But the Constitution is the standard by which to measure the quantum and extent of our sovereignty. And our sovereignty, which is the result of the powers given in the Constitution, is not the standard by which to measure the Constitution. The Constitution is the true bed of Procrustes—and our sovereignty, however unwillingly we may yield it, must be the victim.

Another argument, which is rather an argument to the favor than to the right of this bank, is, that it is an innocent institution; that, although its erection involves the exercise of legislative powers within the States, it does not abridge or affect the rights of the citizens, as secured to them by the laws of those States. A corporation, it is said, is a fiction of the law, a mere political transformation of a number of individuals from their natural into an artificial character, for the purpose of enabling them to do business to better advantage, and on a more extended scale; but, that when this political association, this legal entity, is once formed, it becomes subject to the laws of the State in which it happens to be placed.

I know, sir, that there is nothing formidable in the abstract idea of a corporation. It is a mere phantom of the imagination, invisible, intangible, and, of course, innocent. But, sir, when the legal effects of this incorporation are to invest the individuals whom it associates with privileges and immunities to which they were not before entitled; when this legal fiction is interposed to shield certain individuals from the liabilities to which they would be subject as ordinary citizens, it then becomes a matter of important and serious consequence. What are some of the legal effects of this incorporation?

One of its most obvious and distinguished characteristics is, that it exempts the private property and persons of the stockholders from all liability for the payment of the debts of the company. By the laws of every State in the Union, every man is, I believe, liable for the payment of his debts, to the full amount of his private fortune; and, in case that fortune prove insufficient, his personal liberty is at the disposal of his creditor; at least to a certain extent. Is not, then, the exemption from these liabilities an important immunity? Is it not an exclusive privilege secured to the stockholders of this bank? Assuredly it is. I know it has been said that a number of individuals may, by a private association, secure to themselves all the advantages of an incorporated company; that, by forming a common fund or stock upon which to do business, and issuing notes chargeable upon that fund, they may exonerate their persons and private property from all liability for the payment of the debts contracted in that business. I am no lawyer, sir; but if the



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law be what it is said to be, and what I believe it to be, *summa ratio*, then, I pronounce this doctrine not to be law; for nothing can be more preposterous in principle than to say, that a man may, by his own act, avoid the force of an obligation which the law has made universal and unqualified. If a man owes a debt, acknowledges he owes it, and has received a consideration for it, the law has prescribed the nature and extent of his liability to pay it; and it is not for him to say that it shall only be paid out of a certain fund, or particular part of his property, and no other. When men contract a debt jointly, the legal obligation to pay it extends as well to the persons and separate property of the individual partners, as to their joint property.

Another feature of this incorporation is, that it authorizes the stockholders to take usurious interest for their money. By the provisions of the law, the bank may issue notes and make discounts to double the amount of their capital stock; and, in addition to that, to the amount of any moneys which may happen to be deposited in their vaults for safe-keeping; and this, too, independent of the debts created by these deposits. The bank, then, may, and in fact, in many instances, does draw an interest on three or four times its capital. Every State in the Union has laws regulating the rate of interest, and in most of the States this rate is fixed at six per cent. a year. By these laws it is made penal for a man to receive more than six per cent interest for the use of any sum of money which, by a loan, he puts at hazard, and the use of which he deprives himself of. Now, sir, this bank is permitted, contrary to those laws, to draw an interest on twenty or thirty millions of dollars, when, in truth, the whole extent of its responsibility, the whole sum which it puts at hazard, and the use of which it foregoes, is only its original stock of ten millions. In answer to this, it will be said that an individual may, by issuing notes to an amount greater than his property, legally receive an interest on a capital which he does not possess. But it must be recollected, in case of the individual, that, although he may not at the particular time possess a property adequate to the payment of his debts, yet that all the property which he may subsequently acquire, will be liable for the payment of those debts; and what is more, sir, his personal liberty is always put in jeopardy. In this point of view the liability and the hazard of the individual may fairly be said to be coextensive with the whole amount of the capital on which he draws an interest; and which is often the case with the bank.

This bank incorporation possesses other qualities at war with the laws of the several States; one of which is, that it authorizes stockholders, who may be foreigners, to hold real estate. But, sir, I will not detain the Committee any longer on this part of the argument, for this institution cannot be said to be innocent, as regards the rights of the States, when its effects on the rights of property are to exonerate the stockholders from some of the most important responsibilities which the laws of the several States have provided for

the payment of debts; and when it authorizes the taking of usurious interest. I lay it down, then, as a position which cannot be controverted, that the granting of this charter is not only an interference with the municipal regulations of the several States in relation to the rights of property; but that it is an infraction of the rights of individuals as secured by those regulations.

But it is contended, that a right to incorporate a Bank of the United States is delegated to Congress by the Constitution; and five or six different provisions of the Constitution are referred to as giving this right. It is said that it is implied in the power to lay and collect taxes, in the power to borrow money, in the power to regulate trade and intercourse between the several States, in the power to provide for the general welfare, and in the power to make all needful rules and regulations respecting the territorial and other property of the United States. The very circumstance of referring this right to many different heads of authority is, in itself, conclusive evidence, that it has no very direct relation to any of them. For it can scarcely be imagined, that the single act of incorporating a bank can be at the same time anything like a direct execution of so many and such distinct and independent powers. But I will examine these provisions separately.

Before I proceed, however, I will premise that all the arguments in support of the right to incorporate a bank, as deducible from the provisions of the Constitution itself, are built up by the aid of the clause of the Constitution, which has been sometimes called "the sweeping clause." I allude to the clause which declares that Congress shall have the right to pass all laws necessary and proper for the carrying into execution the delegated powers. All the powers in the Constitution are given for certain ends or objects. But each power is not a *general* authority to attain a particular object, and comprehending, of course, *all* the means or powers applicable to its accomplishment; but, in most cases, it is a specific means for effecting some particular end, and all other means or powers, (for means and powers are the same thing,) conducive to the same end, are expressly excluded, by the restrictive clauses of the Constitution.

The mode of reasoning adopted by General Hamilton, and the other advocates of implied powers, is this: They first search for the end or object for which a particular power is given; and this object will be an immediate or ultimate one, as may best suit the purpose of the argument. Having ascertained the end or object, they abandon the power; or, rather, they confound the *power* and the *object* of it together, and make the attainment of the object, and the execution of the power given to accomplish it, convertible terms. Whatever, they say, attains the object for which any power is given, is an execution of that power. But the Constitution gives to Congress a right to make all laws necessary and proper for carrying into execution the delegated powers; and, therefore, as the execution of a power and the attainment of its object, are synonymous

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terms; the Constitution gives to Congress a right to make all laws necessary and proper for attaining the ends or objects for which the various powers in the Constitution are given.

I beg leave to read a passage from this pamphlet: "The relation between the measure and the end; between the nature of the means employed towards the execution of a power, and the object; must be the criterion of constitutionality." Here then is the axiom—now for the application of it. The Constitution gives to Congress the power to levy taxes, and also the power to borrow money. But the establishment of a bank is neither levying taxes nor borrowing money; nor is the law incorporating the bank, a law to levy taxes, or a law to borrow money. But the immediate end or object, for which these two powers were given, was, to enable the Government to raise a revenue; and a bank may promote this object. Then, sir, by a dexterous application of the argument which I have stated, the fallacy of which consists in the sudden and unobserved transitions which are made from the power to the object, and from the object back again to the power, they prove that the establishment of a bank is in execution of the powers to lay taxes and to borrow money. I will now, sir, proceed to examine the particular provisions of the Constitution which have been relied on, and to place the subject in some different aspects.

In the first place, then, it is contended that the right to incorporate a Bank of the United States is included in the power to lay and collect taxes. And what is the argument by which this position is maintained? Why, sir, it is said that the law, by creating bank paper, and making that paper receivable in payment for taxes, increases the circulating medium in which taxes are paid, and of course must facilitate the payment of them. That whatever facilitates the payment of taxes, facilitates also the collection of them; and whatever aids or facilitates the collection of taxes, is a means for their collection. And therefore, the incorporation of a bank is in execution of the power to lay and collect taxes.

No man, sir, ought to complain of the weakness of a Government, whose powers may be *reasoned up* by logic like this. Amidst the infinite variety of relations, and connexions, and dependencies and analogies by which all human transactions are allied to each other, he must be a weak politician who cannot, by hooking together a chain of implication like this, justify any and every measure of political policy or economy, as a means of executing some of the powers with which this Government is intrusted. Take this latitude of implication or construction, and you want no other power but the power to lay and collect taxes. It may be tortured into a justification of every measure which ambition itself could desire. No tyrant ever made a law without assigning the public good as the motive of it. No man on this floor, however wicked his designs, would venture to propose a measure (indeed few could be proposed) in favor of which he could not adduce some plausible argument, to

show that it would tend to promote the general prosperity of the country. And in showing this he would show its constitutionality; for it is demonstrable that whatever would promote the general prosperity of the country, would, and for that very reason, facilitate, in some greater or less degree, the payment of taxes; and might therefore be justified as a means for the collection of taxes.

But, sir, the Constitution, as I have said before, and I must repeat it again, for this is the radical source of all the error on this subject—the Constitution of the United States is not, as such reasoning supposes it to be, a mere general designation of the ends or objects for which the Federal Government was established, and leaving to Congress a discretion as to the means or powers by which those ends shall be brought about. But the Constitution is a specification of the powers or means themselves by which certain objects are to be accomplished. The powers of the Constitution, carried into execution according to the strict terms and import of them, are the appropriate means, and the only means within the reach of this Government, for the attainment of its ends. It is true, as the Constitution declares, and it would be equally true, if the Constitution did not declare it, that Congress have a right to pass all laws necessary and proper for executing the delegated powers; but this gives no latitude of discretion in the selection of means or powers. A power given to Congress in its Legislative capacity, without the right to pass laws to execute it, would be nugatory; would be no power at all. It would be a solecism in language to call it a power. A power to lay and collect taxes, carries with it a right to make laws for that purpose; but they must be laws to lay and collect taxes, and not laws to incorporate banks. If you undertake to justify a law under a particular power, you must show the incidentality and applicability of the law to the power itself, and not merely its relation to any supposed end which is to be accomplished by its exercise. You must show that the plain, direct, ostensible, primary object and tendency of your law is to execute the power, and not that it will tend to facilitate the execution of it. It is not less absurd than it is dangerous, first to assume some great, distinct and independent power, unknown to the Constitution, and violating the rights of the States; and, then, to attempt to justify it, by a reference to some remote, indirect, collateral tendency, which the exercise of it may have towards facilitating the execution of some known and acknowledged power. This word *facilitate* has become a very fashionable word in the construction of powers; but, sir, it is a dangerous one; it means more than we are aware of. To do a thing and to facilitate the doing of it, are distinct operations; they are distinct means; they are distinct powers. The Constitution has expressly given to Congress the power to do certain things; and it has, as explicitly, withheld from them the power to do every other thing. The power to lay and collect taxes is one thing; and the power

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to establish banks, involving in its exercise the regulation of the internal domestic economy of the States, is another and totally distinct thing; and the one is therefore not included in the other.

Again, sir, it is contended that the right to incorporate a bank is implied in the power to regulate trade and intercourse between the several States. It is said to be so, inasmuch as it creates a paper currency, which furnishes a convenient and common circulating medium of trade between the several States. Money, sir, has nothing more to do with trade, than that it furnishes a medium or representative of the value of the articles employed in trade. The only office of bank bills is to represent money. Now, if it be a regulation of trade, to create the representative articles or subjects of trade, *a fortiori*, will it be a regulation of trade to create the articles or subjects themselves. By this reasoning then you may justify the right of Congress to establish manufacturing and agricultural companies within the several States; because the direct object and effect of these would be, to increase manufactures and agricultural products, which are the known and common subjects of trade. You might, with more propriety say, that under the power to regulate trade between the States, we have a right to incorporate canal companies; because canals would tend directly to open facilitate and encourage trade and intercourse between the several States; and, in my humble opinion, sir, canals would furnish a much more salutary, direct and efficacious means, for enabling the great body of the people to pay their taxes, than is furnished by banks. But, sir, these various powers have never been claimed by the Federal Government; and, much as I am known to favor that particular species of internal improvement, I would never vote to incorporate a company for the purpose of opening a canal through any State, without first obtaining the consent of that State, whose territorial rights would be affected by it. There can be no question, but canal companies, and agricultural companies, and manufacturing companies, and banking companies, may all tend, more or less, to facilitate the operations of trade; but they have nothing to do with the political regulations of trade; and such only come within the scope of the powers of Congress.

But, it is again said, that the right to grant this charter is included in the power to borrow money. The right is attempted to be deduced by a train of reasoning similar to that employed in relation to the provisions which I have already noticed—by forming a string of implications, by which you prove that a power to act in certain cases, and in relation to certain subjects, implies the power to create those cases and subjects to act upon. The Government, it is said, may want and must have money, in any great national crisis. A National Bank with an extensive capital will furnish ample means for loans, will facilitate the exercise of the power to borrow; and, therefore, the right to establish such a bank is implied in the power to borrow. No one, but a logician, sir, would imagine that a power to

lend and a power to borrow had any relation to each other—much less could he conjecture, that a power to borrow, and a power to create the ability to lend, mean the same thing. A plain unsophisticated man, on reading the Constitution, would say, that the power to borrow, necessarily, and by force of the term, pre-supposed the existence of the ability and disposition to lend; and that it could not be exercised unless such ability and disposition should actually exist. But the favorite doctrine is, that all powers are given for particular ends, and include all the means applicable to their attainment. Here the end is to borrow money; to borrow honestly if we can, but—to borrow. The ability to lend is a necessary means or ingredient toward perfecting the execution of the power to borrow. But, sir, let me ask, whether the disposition to lend be not as necessary a means towards accomplishing a loan as the ability? It unquestionably is. And, of course, by the doctrine that the end justifies the means, you may coerce the will to lend—and this too equally, in cases where the ability is created by Congress, and where it is derived from any other quarter. A loan obtained by bringing into fair operation all the implications of this power would be borrowing in an off-handed style. Such a loan, if effected by Bonaparte, we should call robbery. But in this mild Republic, it would be nothing more than the fair exercise of an implied Constitutional power.

I have pursued this argument thus far, merely for the purpose of showing the absurdities into which this doctrine of implication will lead us. But suppose, sir, that the argument of the gentleman on the other side of the question be correct, to wit: that the power to borrow implies a right to furnish the ability to lend. What, I would ask, is the probable fact, as to the facilities which this bank will afford the Government in borrowing?

It will be conceded that we shall have no occasion for borrowing, except in case of war; and if we have a war, the probability is, that that war will be with Great Britain—I say this, not as a party man, sir, but because the interests of that nation, from her situation, and her rival pursuits, will be much more likely to come in collision with ours, than those of any other Power. Now it is a fact, in evidence before the Committee, that more than one-half of the stock of this bank belongs to British subjects: and although, as foreigners, they can have no direct agency in the affairs of the bank, yet we well know that through the instrumentality of their friends and agents, of whom there are, unfortunately, too many in this country, they may completely control its operations. Now, I would ask, whether it is probable, that the British subjects would be willing to lend us money to carry on war against their sovereign? Would they not, on the contrary, exert the influence which they are said to possess over the moneyed interest of this country, for the purpose of depressing the credit of the country; for the purpose of crippling the operations of the State banks; and for the purpose of drying

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up the sources from which the Government might otherwise calculate to derive supplies? But, sir, this has little to do with the question of constitutionality, to which I will again return.

Another ground upon which the constitutionality of this institution has been attempted to be supported, is, that it is necessary to the regular and successful administration of the finances. There is no question, but the bank and its branches afford convenient places for the deposit and safe keeping of the public revenue. It is not to be controverted that they also furnish a safe, convenient, expeditious and cheap means for the transmission of moneys from one part of the United States to another, as they may be wanted by the Government; and, if these facilities were not to be attained in any other way, I should say it would afford an argument in favor of a bank. Not a bank infringing and violating the rights of the States; but, a bank upon principles consistent with those rights.

But, sir, is there not, in every State in which there is a branch of the United States' Bank, also one or more State banks, of equal respectability, and of equal security—at least to the extent of any sum for which they are willing to undertake? These State banks may be used as depositories for the public moneys and they will be equally safe and convenient. And, if you will give to these State banks the advantages of these depositories, as you have hitherto given them to the United States' Bank, they will furnish means for the transmission of moneys from place to place, equally safe, convenient, cheap, and expeditious. This object will be attained by connexions which will be formed between the banks of the different States. Such connexions have already in many instances been formed. But they have not been carried to the extent they otherwise would have been, on account of the United States' Bank and its branches; between which there is so intimate and so necessary a connexion.

But, in answer to this, it is said that if the Bank of the United States would be Constitutional without the existence of the State banks, it is equally so with. That a power which is once Constitutional is equally so at all times, and under all circumstances. That a right which must depend for its existence on the will of the State Legislatures, over whom we have no control, is incomplete, and indeed, as to us, is no right at all. This argument is founded on the supposition that the Federal Government is a complete Government, containing in itself all the principles and powers necessary for its own operations, which supposition is wholly false. The Federal Government does not profess to be complete in itself. It is expressly predicated on the existence of the State governments; and most of the facilities for its exercise are derived from the State governments. It cannot perform even its own peculiar powers and functions, without the aid and co-operation of the State authorities. How, let me ask you, sir, is your Government constituted? Your Senate is appointed directly by the State Legislatures. Your President and

House of Representatives, indirectly, by the same authority. Suppose they should neglect or refuse to make these appointments, can you compel them to do it. No, sir. Can you punish them for not doing it? Not in the least. They may appoint or not, as they think proper; and if they should neglect or refuse to do it, your boasted complete Government would die a natural death, by its own imbecility. It is not fair, then, to say that a power is Constitutional because the Government would be incomplete without it. It is not fair to say, that what would be Constitutional, without the existence of the State governments and their appendages, is equally so with. This would prove that you have a right to appoint your own President, Senate, and House of Representatives. It would go to usurp all the powers of the State governments; for the Government could not be said to be complete without possessing the powers of both Governments combined. Indeed, this Federal Government cannot be said to be complete as to a single power, without all the auxiliary powers of the State governments; for there is not a single act which it can perform without their assistance, directly or indirectly. The very bank law now under consideration is an illustration of this—for how are the provisions of this law to be enforced; how are the debts which it authorizes to be contracted to be collected, but through the medium of the State courts? The doctrine of perfect rights, then, if it prove anything, proves too much. If it proves that, in order to manage your revenues, you may establish banks within the States; it equally proves, that, in order to carry the provisions of your bank laws into execution, you may establish courts and offices within the States for that purpose. I think then, sir, I may fairly conclude, that so long as the State governments furnish you with all the facilities, which you can reasonably require, for conducting your revenues by means of their State banks; so long it will be unnecessary—so long it will be improper—and, therefore, so long it will be unconstitutional to invade the jurisdiction of the States, to establish national banks.

Again. The constitutionality of the bank has been attempted to be maintained by a reference to the phrase in the Constitution, in relation to the power of Congress to provide for the general welfare. I will read the clause in which the phrase is contained: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." This clause has been erroneously construed by some to contain a successive delegation of three or four distinct powers, to wit: a power to lay taxes—a power to pay the debts—a power to provide for the common defence and general welfare. If, then it is said, Congress have power to provide for the general welfare, they may choose the means, which are here not made specific, but left discretionary, for the attainment of that object; and, as in their opinion a National Bank will conduce to that object, they

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have a right to establish a National Bank. But, sir, this is a total misconception of the meaning of this clause of the Constitution. Instead of three or four distinct grants of power, this clause contains but one grant of power, namely, the power to raise money by taxes, &c.—and all the subsequent parts of the clause are a mere limitation of this power to raise money; or a specification of the purposes for which money may be collected. That this is not a general authority to Congress to provide for the common defence and general welfare, is instantly discovered by a comparison of this clause with the subsequent part of this section; which consists of a list or enumeration of the specific means or powers, by which Congress may provide for the common defence and general welfare. And it would be unnecessary and absurd in itself, as well as repugnant to the whole spirit and character of this Constitution, to give, first, a general power, and then to delegate specific powers, all comprehended in the general one. Although I do not think there is any ambiguity in this clause, as it now stands, yet, its meaning might, perhaps, be rendered more perspicuous and definite by altering the phraseology so as to read in this way: "Congress shall have power to lay and collect taxes, duties, imposts, and excise, for the purpose of paying the debts and providing for the common defence and general welfare of the United States; but (going on again, sir, with a further qualification of the same power to raise money) all duties, imposts, and excise, shall be uniform throughout the United States." This, then, is merely a right to raise revenue; and, so far as regards the *objects* for which revenue may be raised, the powers of Congress are discretionary; provided those objects come within the description of providing for the common defence and general welfare: But so far as regards the *means* by which these revenues, when collected, shall be applied to their destined objects we must look to the powers of Congress as defined and limited in the subsequent parts of this section. In other words, this clause gives plenary powers to raise money; but it gives no powers—I should say, political powers—in relation to its application and expenditure. The powers of Congress over the money, when collected, in reference to its expenditure, would be the same which an individual possesses over his private property—powers resulting from the nature of property, and as regulated by the laws of the State in which it might happen to be situated. I will illustrate my idea by a case. Suppose the Constitution had given to Congress the power to raise a million of dollars, to provide for a National University. Would it then follow that we might go into the State of North Carolina and take your property—property secured to you by the laws of that State—to make this establishment upon? Could we take the public property of that State for this purpose? To both of these questions, every man who understands anything of the Constitution will promptly answer, no. This power then to raise money, for the purpose of establishing a National University, is only a

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power to raise money: and, for the means of applying it, we must search for our power in another part of the Constitution. On doing this we should find that we must erect the university either in the District of Columbia, or in one of the Territories over which we have exclusive jurisdiction; or, in case we should choose to erect it within the limits of a particular State, we must first not only purchase the land, but obtain a cession of the jurisdiction from the State government. The phrase of *providing for the general welfare*, then, is a mere qualification of the power to levy taxes, and can give no authority in relation to banks.

There is one more, and I believe but one more, provision in the Constitution, which is relied on as authorizing the establishment of this bank. It is this: "Congress shall have a right to dispose of and make all needful rules and regulations respecting the territory or other property of the 'United States.'" It is said that, in virtue of this provision, Congress have established the Territorial governments, which are corporations of the highest and most extensive nature, exercising political powers over the person as well as the property of citizens of the United States; and that no complaint has been made, that Congress has exceeded its authority, in this particular. Why may we not, then, it is asked, establish corporations to regulate and manage the personal property of the United States, which is coupled in the Constitution with the territorial property? The fallacy of this argument consists in not marking the distinction, which exists in these two species of property, and the consequent powers of the Government over them. The property which the United States possess in the territorial lands is not a mere right of soil, a mere *usufruct*—but it also includes the right of jurisdiction and sovereignty. It is in virtue of this right of jurisdiction, of those sovereign plenary and exclusive powers over the Territories, which I noticed in a former part of my observations, that these corporations or Territorial governments have been established. On the other hand, our revenues are not only personal property, but a qualified property—they are collected for certain objects, and are subject *in transitu* to the local jurisdictions. This argument, then, which is founded on an analogy that does not exist, must fall with the analogy that supports it.

But, Mr. Chairman, my honorable friend (Mr. FISK) has advanced a new argument in support of the constitutionality of this bank—an argument, not deduced from the provisions of the Constitution itself, but founded on prescription. He tells us that this bank was originally incorporated by a Congress fully competent and qualified to decide on its constitutionality; that its existence is almost coeval with the Government; that it has been countenanced by all succeeding Administrations; that laws have been passed to enforce the provisions of the original charter; and therefore the Constitutional question must be considered as settled, adjudicated, and at rest.

Whatever may be the opinion of the gentlemen of the *long robe*, I cannot for myself, yield to this

doctrine of *prescriptive* Constitutional rights. It may answer in England, where they have no constitution; or where, rather, as they choose to explain it, immemorial usage, or prescription, are evidence of what their Constitution is. It may do in Connecticut—(it is not my design to derogate from the respectability of that State, nor of its institutions)—it may be good doctrine in Connecticut, where ancient customs and *steady habits* are their constitution. But, sir, doctrine should never be tolerated in this House, where every member has a *printed Constitution* on his table before him—a Constitution drawn up with the greatest care and deliberation; with the utmost attention to perspicuity and precision. A Constitution, the injunctions of which, as we, in our best judgments shall understand them, and not as they shall be interpreted to us by others, we are solemnly bound, by our oaths, to obey.

It is true that this bank was originally established by a Congress competent to judge of its constitutionality. It is equally true that a respectable minority of that Congress opposed the passage of the law, on the ground of its unconstitutionality; and if I have been rightly informed, it is also true that the then President, General WASHINGTON, in giving his sanction to that law, did it with more doubt and hesitation, than almost any other act of his Administration.

It is true that subsequent Congresses, of different political complexions, have passed laws enforcing the provisions of the original charter; and that no attempts have been made to repeal it. But it is equally true, that all this might be done away with the most perfect propriety and consistency, although they totally 'disbelieved in its constitutionality. I need not state to this House, that this is not a law in the ordinary course of legislation—a law prescribing a common rule of conduct for the government of the citizens of the United States at large—liable to be repealed at any time; and the obligations of which would cease with its repeal. This, sir, is not the nature of the law, but it is a law in the nature of a contract between the Government and certain individuals, and the existence of it was extended to twenty years. The moment this contract was made, and its operations commenced, private rights were vested; and it would have been a breach of national faith to have repealed it. The original Congress had the same right that we have to judge of the constitutionality of a law; and having, under that right, passed this law or made this contract, we are bound to carry it, as a contract, into execution. As a contract, every successive Congress, of whatever materials composed, is one party to it; and it is well known that a party cannot violate the obligations of his own contract; but, on the contrary, is bound to carry them into effect. It was competent in the State governments to have opposed the execution on the ground of its unconstitutionality; but, perhaps, under all circumstances, they acted a wise and discreet part, in not attempting it. The national faith was pledged in the passage of this law. The national credit, which it was at that

time, and which indeed it is at all times, of the first importance to support, was at stake on the faithful execution of this contract; and it was better to suffer for twenty years, under an unconstitutional law, rather than to attempt so violent a remedy—a remedy which would have crippled the credit of the nation in its infancy.

But, sir, because these were proper considerations with our predecessors and the States, to suffer the continuance of this law, does it follow, that now, when that law has expired by its own limitation, when the obligations of that contract are complied with and discharged, when the national faith is emancipated, that they are motives for us to make a new unconstitutional contract? No, sir. The question now is a question *de novo*. It is a question of conscience in the interpretation of the letter and spirit of the Constitution; unembarrassed by any collateral considerations; and as such, I shall feel bound to vote upon it. It is the province of the Executive and Judicial departments to explain and direct the practical operation of each particular law; and I must submit to the decisions. But the commentaries of courts are not to furnish the principles upon which I am afterwards to legislate. It is to this book, (the Constitution) so justly dear to us all, and not to the books of reports, that we must look, as a guide, to direct us in the path of our oath and our duty.

I believe, sir, that I have gone through, lamely, I know, but I hope intelligibly, with the examination of all the principal arguments, that have been advanced in support of the constitutionality of this law. Having already occupied so much time, I will detain the Committee but a few moments longer.

If the views which I have taken of the subject are correct, these positions may be considered: First, that we have no right to incorporate a bank, unless that right be delegated by the Constitution; for such is the declaration of the Constitution itself. Secondly, that if this right be given by the Constitution, it is included in some of the provisions upon which I have been commenting.

The only question, then, as relates to the Constitution, is, whether we shall, by the passage of this bill, recognise the doctrine of implied or constructive powers. Before we do this, I must entreat every member of the Committee to examine well the consequences of such a recognition. This is not a question about the utility or inutility of a bank; but it is a great question of Constitutional principle. It is, whether we shall consider this Government as the servant and instrument of the people for managing and protecting their rights, and subject at all times to their control; or whether we shall make it a giant, capable of crushing its masters. A moment's careful attention to this subject will show that the doctrine of implied or constructive powers, as contended for in this case, is nothing more or less than the doctrine of general expediency; and that once established, it will warrant Congress in the adoption of any measure not expressly prohibited by the Constitution.

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The great ends or purposes of our Government are the liberty, the security, and the happiness of the people. The raising and management of revenue, the establishment and support of armies, the institution of courts of justice, and the regulation of trade and intercourse between the States and foreign nations, are some of the great means or instruments by which these results are finally produced. There is a natural and ultimate connexion and coincidence between all these great measures or powers of government—they are expressly calculated to aid and assist each other in their operations, and, in fact, form different parts only of one great political machine. Every possible measure of civil policy is expedient, exactly in proportion to its fitness or tendency to promote the combined operation of these great causes or instruments of human happiness and security. But, sir, by the doctrine of implied powers, the constitutionality of every measure is also made to depend on its tendency or fitness to promote the final objects for which these various powers are given; and thus resolves itself into a question of expediency.

From the view we have taken of the arguments in support of the right to incorporate this bank, said Mr. P., we perceive that its constitutionality is not made to depend on the peculiar applicability of the measure to any particular power in the Constitution; for it is equally applicable to half a dozen different powers—but its constitutionality is made to depend on its general tendency to promote the ultimate objects for which these different powers were given. In other words, it is made to depend on its expediency. We speak of implied powers as innocent things—as matters of course. But the idea of express Constitutional powers and implied Constitutional powers, gives us the exact definitions of limited and arbitrary Governments. The final object of both these Governments is the same—the happiness of the people. The only difference between them is, that in the one case the powers or means by which this end is attained, or intended to be attained, are limited and defined; in the other they rest on the discretion or will of the despot—they are all, with him, questions of expediency.

There is another point of view in which this subject may be placed; and in which, it seems to me impossible for the strongest advocates of implied powers to reconcile the passage of this bill. It will not be denied, that the Constitution contemplates the existence of two distinct sets of powers—the one in the State governments, and the other in the Federal Government. That there are certain powers which may be said to belong peculiarly and exclusively to the State governments; and certain other powers which may be said to belong peculiarly and exclusively to the Federal Government. Now, sir, if there be any power which can be said to belong peculiarly and exclusively to the State governments, it is, in my humble apprehension, the very power of erecting corporations for the purpose of carrying on moneyed or other operations; connected immediately, necessarily, and inseparably with the

internal political economy of the State; it is the power of regulating the rights and relations of property between citizen and citizen of the same State; it is the power of erecting a banking company, in order to facilitate and direct the daily and ordinary operations of trade and industry among the citizens of the same State. Although, then, I say, the power of incorporating a bank might, at first, seem to be implied in some of the powers of the Federal Constitution; yet, when we see that, in its exercise, it goes to obliterate and destroy the great characteristic feature of distributive power in this Republic—when we see that, in its execution, it obtrudes and ramifies itself into all the transactions of domestic economy, which are the peculiar subjects of local or State regulation—we ought, on that account, to reject it.

But, sir, I will conclude by again cautioning my Republican friends, and my worthy colleague in particular, to beware how they familiarize themselves with this doctrine of constructive power. It is a creed, at war with the vital principles of political liberty. The pride and the boast of the American Governments is, that they are the governments of the laws and not of men—that they are the regular and necessary operations and results of principles and powers, established in the moments of cool and deliberate reflection, by thy combined wisdom of the nation; and that they are not the effects of the momentary passion, pride, interest, whim, or caprice of a few individuals collected on this floor.

Little did the framers of this Constitution, when they were so nicely adjusting and balancing its various provisions—when they were so carefully erecting guards and barriers against the encroachments of power and ambition—little, I say, sir, did they imagine, that there lay concealed under the provisions of this Constitution, a secret and sleeping power, which could, in a moment, prostrate all their labors with the dust. Still less, sir, did the people when they adopted this Constitution, with even more caution and scruple than that with which it was formed, conjecture that they were signing the death-warrant of all their State rights. But, once adopt the doctrine that you may travel out of the letter of this Constitution, and assume powers, merely on the ground that they will tend to facilitate the execution of powers which are here given; and you compass, at a single sweep, all the rights of the States; and form the basis of a consolidated Government.

Let the principle of constructive or implied powers be once established, in the extent to which it must be carried, in order to pass this bill, and you will have planted in the bosom of this Constitution a viper, which, one day or another, will sting the liberties of this country to the heart.

When Mr. PORTER had concluded his speech, the question was taken on striking out the first section, and carried—59 to 46.

The Committee rose, and reported to the House, who adjourned without taking a question on the report.

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Edmund Brooke.

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SATURDAY, January 19.

Another member, to wit: from New York, BARENT GARDENIER, appeared, and took his seat.

The SPEAKER having informed the House that he had some confidential communications to make, the galleries were cleared and the doors closed, and, having remained so for some time, were again opened.

Mr. McKIM presented a petition from the mechanics, manufactures, traders, and other inhabitants of Baltimore, and a memorial of the President and Directors of the Baltimore Insurance Company, respectively praying a renewal of the charter of the Bank of the United States.—Ordered to lie on the table.

Mr. GARDENIER presented a memorial of the United Insurance Company of the city of New York, and of the New York Insurance Company, praying a renewal of the charter of the United States Bank.—Ordered to lie on the table.

Mr. MITCHILL presented a petition of John Bioren, W. John Duane, and Roger C. Weightman, praying the patronage and aid of Congress in printing an edition of the laws of the United States.—Ordered to be referred to a select committee.

Mr. MITCHILL, Mr. RINGGOLD, and Mr. SEYBERT, were appointed the committee.

Mr. POTTER presented a petition of the Officers of the Rhode Island Line of the Revolutionary Army, praying that Congress will take their case into consideration, and grant them, and others similarly situated, half pay for life.—Referred to the committee appointed, on the twenty-fourth ultimo, on petitions from other Officers of the Revolutionary Army.

Mr. MITCHILL also reported at large on the petition of John Brumbach and others.

[The petitioners are owners of merchant mills, and complain that they are obliged to pay Oliver Evans for licenses to use his elevators and other machinery, although this apparatus was erected after the expiration of Evans's first patent, and before the granting of his second patent, under the act of Congress of January 7, 1808.]

The report was twice read, and referred to a Committee of the Whole.

## EDMUND BROOKE.

Mr. Root, from the Committee of Claims, made a report on the petition of Edmund Brooke; which was read, and referred to a Committee of the whole House on Friday next.

The report is as follows:

That the petitioner claims pay, commutation, and bounty lands, for his services in the Revolution, as first lieutenant in the first regiment of Virginia artillery, on the Continental establishment. He states that he was appointed to that office in February, 1781, and continued in service till the siege of York, "when, being extremely ill, he was compelled to ask a furlough for a few weeks." The petitioner does not even state that he ever afterwards joined the Army, but that he held himself in readiness to obey any call that might be made on him.

The committee are of opinion, from this statement of facts, that the acts of limitation would be amply suf-

ficient to oppose this claim; but, as one of the members of your committee has expressed a desire that a detailed report be made, and as the vote of the House a few days since, on the claim of Edwin C. Brown, seems to have expressed a decided opposition to the efficacy of those acts, they proceed to perform the task assigned them. They are not sure that they can present this case as its original merits would have required. This claim has often been before Congress, and was reported against at the last session; and the committee, before they proceed, cannot but express their regret that the pertinacity of claimants has, in some measure, been encouraged by the apparent success of some supposed fortunate claimants. The committee proceed to investigate the several items of claims in the order in which they are claimed.

1. *Pay.*—By a certificate, dated the 17th of March, 1798, signed "Andrew Dunscomb, late assistant commissioner of army accounts, Virginia," produced as is supposed by the petitioner, and referred to in his petition, are these words: "From an examination of the books in the office of the Auditor of the State of Virginia, it appears that Colonel Duval settled the account of Edmund Brooke, as a lieutenant of artillery, on the 5th day of March, 1784."

2. *Depreciation of pay.*—By the resolve of Congress, of the 10th April, 1780, "the line of the army, and the independent corps thereof," were promised, when the public finances would admit, that the deficiency of their pay, occasioned by depreciation, should be made good; but this provision is not applicable to any but such as were engaged during the war, or for three years, and were then in service. The petitioner does not come within the provisions of this resolution.

3. *Commutation.*—By a resolution of Congress, of the 22d March, 1783, all officers then in service, and who should continue therein to the end of the war, were entitled to receive the amount of five years' full pay, instead of the half-pay for life promised by the resolution of the 21st October, 1780. The latter resolution, from its obvious import, did not make provision for any officers except those then in service or reduced. As the petitioner was not then in service, nor reduced in October, 1780, he could never have been entitled to commutation had he continued in service to the end of the war. It has long since been settled, that the war ended when the troops were disbanded, on the 3d of November, 1783; and there is not sufficient proof that he continued in service until that time.

4. *Bounty lands.*—This subject belongs to the Treasury Department. Had it been the sole prayer of the petition, it is believed it would not have been referred to your committee.

The committee recommend to the House the adoption of the following resolution:

*Resolved,* That the prayer of the petitioner is entirely unfounded, and ought not to be granted.

## PATENT LAWS.

Mr. MITCHILL made a report from the select committee appointed on the 12th December, 1810, for the purpose of revising and amending the patent laws.

[The report is by bill. It consists of about twenty sections, and is a revision of all the acts now in force relative to intellectual property, with such amendments as experience has suggested.]

The bill was read a first and second time, and referred to a Committee of the Whole.



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*Public Deposites—Remission of Fines, &c.*

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## PUBLIC DEPOSITES IN BANKS.

Mr. LOVE said he considered the vote in Committee of the Whole as decisive of the sense of the House against the renewal of the charter of the United States' Bank Company. It was therefore necessary to provide immediately for some other place of deposit for the immense property of the United States in the hands of that company, and that which would be in its hands by the time of its dissolution, if the law was not repealed which made it the duty of the collectors to deposit the custom-house bonds in the hands of that bank and its branches. It was certainly a stake of too great magnitude to suffer it to fall to the hands of the executors of the institution, about to become defunct, over whom no department of Government would have even the semblance of check or control, now said to exist over the corporation itself. It was stated in a report of the Secretary of the Treasury, of the 9th of this month, in consequence of a resolution of this House, that on the 1st of March, there would probably be upwards of \$2,500,000 of specie in the Treasury; nearly the whole of which, it appears, would be deposited in this bank. In the annual report, made on the 12th of December, it is stated that there would be deposited for collection bonds which are deemed good, to the amount of about \$11,000,000, and that the importations after that time would be sufficient to meet the debentures; making, according to this statement, a deposit in all equal to \$13,500,000 on the 1st March next.

But it was obvious, the specie deposit at that time would probably not only exceed, (as stated in the report of the 9th,) but very greatly exceed \$2,500,000; and a small attention to those two reports will show that the estimate of the Secretary was made under the influence of very great caution, in rating the resources of the Government.

In the annual report it was stated, that, on the 31st December, in the year 1810, there would be a probable specie balance of \$2,000,000. This balance was predicated on the statement under the head of "No. 2, last quarter of the year 1810," in which the receipts of that quarter are carried out at \$2,500,000, although in the first part of that report it is stated that it was believed that the net revenue arising from duties would not fall short of \$12,000,000—making, for the last quarter of 1810, the sum of \$4,500,000, instead of \$2,500,000. And, indeed, when the time when importations recommenced is recollected, and that they have from thence to the present been as great of foreign merchandise, if not greater, than at any former period for the same length of time; when it is considered that a large portion of the duties did become payable during the last quarter of 1810, it cannot be asserted that the expectation of receiving a net sum of \$4,500,000 was unfounded. The same causes will certainly warrant the expectation of a still larger receipt of revenue in the first quarter of 1811; but, taking it at the same sum, and taking from it the receipts after the 1st of March, would leave for the receipts to the 1st of March \$3,000,000—making a total of receipts

to the 1st of March, of \$7,000,000; from which, deducting two months of expenditure, amounting, for current expenses and interest of public debt, to about \$1,330,000, will leave the sum in specie in the Treasury of \$5,670,000. This sum, with the deposit of bonds, will not be much short of \$17,000,000.

In another point of view, Mr. L. said, it might be important to take immediate steps for the removal of the specie deposited from the United States' Bank. It might aid the banks into which it would be deposited in affording the accommodations which the present state of mercantile resources had made so necessary. This deposit could not be less for some months; and, even after paying the money borrowed from the United States' Bank, (which might as well be done to-morrow as any other time,) would leave a surplus of nearly \$3,000,000 on the 1st of March. Mr. L. therefore submitted the following resolution, which he read, and asked should lie on the table:

*Resolved*, That it is expedient to repeal so much of an act passed the 10th May, 1800, as makes it the duty of certain collectors to deposit for collection in the Bank of the United States, or any of its branches, the bonds taken by them for the payment of duties. And that it is expedient to provide that the bonds or moneys now deposited in the said bank and its branches may be withdrawn.

## REMISSION OF FINES, &amp;c.

Mr. NEWTON reported the following bill:

A Bill to remit certain fines, penalties, and forfeitures.

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That all fines, penalties, and forfeitures, incurred in the following description of cases—to wit: first, of vessels which have entered a British port since the tenth June last, or which may hereafter enter such port, having sailed for the same before information of the Proclamation of the ninth of August, one thousand eight hundred and nine, had been received at the port of departure; so far as relates to any forfeiture or penalty which may accrue or have accrued by reason of their having thus entered a British port. Secondly, of vessels which have arrived, either from British ports, or with British merchandise, in the United States, subsequent to the tenth of June last; and also of vessels which may hereafter thus arrive, having sailed for the United States before information of the Proclamation of the ninth August, one thousand eight hundred and nine, shall have been received at the port of departure; so far as relates to any forfeiture or penalty accruing from having arrived or arriving in the United States, from British ports or with British merchandise. And, thirdly, of vessels now owned by citizens of the United States, and sailing under the American flag, which, being in a foreign port at the time when the Proclamation of the ninth August, one thousand eight hundred and nine, shall have been known at such port, shall, in forty days after knowledge of the said Proclamation, depart or have departed therefrom, and returned without delay to the United States; so far as relates to any forfeiture or penalty accruing from their arriving in the United States from British ports, or with British merchandise—be and the same are

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hereby remitted, any law to the contrary notwithstanding.

The bill was twice read and referred to a Committee of the Whole.

#### BANK OF THE UNITED STATES.

Mr. SAWYER called for the order of the day on the unfinished business of yesterday—the bill continuing the charter of the Bank of the United States.

Mr. FISK moved that it should lie on the table. This was disagreed to—57 to 46.

The House then proceeded to consider the said unfinished business, and the question to concur with the Committee of the whole House on striking out the first section of the bill to continue, for a further time, the charter of the Bank of the United States, being stated—

Mr. DESHA said: Mr. Speaker, the question is on a concurrence with the Committee of the Whole, in striking out the first section of the bill that contemplates a renewal of the charter of the Bank of the United States; or, in other words, whether we will foster a viper in the bosom of our country, that will spread its deadly venom over the land, and finally affect the vitals of your republican institutions; or, whether we will, as it is our duty, apply the proper antidote, by a refusal to renew the charter, thereby checking the cankering poison, the importation and dissemination of foreign influence, that has already brought our Government almost to the brink of ruin. Sir, I am opposed to the renewal of the charter, on Constitutional ground, as well as on the score of expediency. I view it as being directly at war with not only the letter but the spirit of the Constitution, and replete with principles incompatible with republicanism. As to the constitutionality, the ground that I intended to have occupied was taken from me by the gentleman from New York, who spoke yesterday, (Mr. PORTER,) and I will say ably managed. The points he made I consider incontrovertible, and the arguments deduced from them unanswerable; consequently, as I deem the Constitutional question nearly exhausted, I shall but barely touch upon it. The States, sir, from the time they determined to be free, were particularly guarded against the adoption of any measure that could in the most remote degree lead to aristocracy or consolidation. Let gentlemen examine that instrument, the pledge of union—I mean the Articles of Confederation, they will find it couched in cautious language; they will find that the framers of that instrument were particularly guarded against vesting powers in the General Government that could in the most distant manner place their rights and liberties in jeopardy; they no doubt viewed large moneyed institutions, like the one under consideration, as moneyed aristocracies, which might with their different ramifications jeopardize liberty by imperceptibly gliding into consolidation. A power expressly given to the General Government to grant charters of incorporation will not be found in the Articles of Confederation; and if gentlemen will cast

their eyes over the second article of that instrument, they will find it expressly provides, that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by the Articles of Confederation expressly delegated to the United States in Congress assembled. This, sir, I show to prove, that from the time the States determined to shake off the shackles of despotism, the power of granting charters of incorporation was never intended to be given to the General Government.

Sir, those gentleman who are the advocates of this measure will not pretend, that the power to grant charters is expressly given by the Constitution; and, sir, they must be well apprized that such a power was intended to be given. This fact ought not to be lost sight of. Did not Mr. Madison urge in energetic language, in 1791, on the floor of Congress, that the power to grant charters of incorporation was in the original plan, reported by the committee to the Convention among the enumerated powers delegated in the eighth section of the first article of the Constitution, but that after three days deliberation, and ardent debate, it was expunged, as a power dangerous and improper to be vested in the General Government? It is on remote constructive powers that gentlemen must bottom this measure; and in my mind, there they are cut short by the 10th article of the amendment to the Constitution of the United States, where it expressly provides, that, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Are not these prohibitory words strongly and clearly expressed? Sir, I defy gentlemen to lay their finger on any clause of the Constitution that would justify the granting monopolies, or exclusive privileges; no, sir, it cannot be done, unless they lay hold of the horrid doctrine of implication, a doctrine as absurd as it is dangerous, particularly when you have a specific instrument for your guide, and one which you have taken a solemn obligation to support inviolate. I had hoped that the doctrine of implied powers had long since been exploded. Ever since the reign of terror, ever since the Federal gentlemen, under the head of constructive powers, adopted the alien and sedition laws, the people of the United States, in whom the powers of Government rightfully rest, signified their disapprobation of the doctrine of implication, in forcible language, by hurling the then majority out of power. Sir, if you subscribe to this doctrine, the barriers of your Constitution are broken down; it will ultimately become a dead letter, you will have nothing to restrain you. But, say gentlemen, our predecessors have said it was Constitutional; they were men of wisdom, and solemnly passed upon it, as being within the pale of the Constitution. Sir, I acknowledge they were men of wisdom, and perhaps actuated by the purest of motives; but they were men, consequently fallible and liable to err, and in my mind they did err most egregiously; and am I to take for granted what they have done, without examining and judging for myself,

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particularly when I am acting under the solemnity of an oath? No, sir, while I have the honor of a seat on this floor, and any measure is about to be adopted, which in my opinion conflicts with that instrument that I am sworn to support, I will raise my voice against it, and if possible check its progress.

But, sir, we are gravely told, that it is expedient to renew the charter of the Bank of the United States, inasmuch as the evils arising to Government and individuals would be desperate on its being suffered to expire; therefore it was Constitutional. Then, sir, we are to understand expediency and constitutionality to be synonymous terms; then, if that is the fact, the Constitution is a nullity in itself; Congress has nothing to restrain them but their judgment. They are fully at liberty to adopt any measure they may think proper, under the sweeping clause of providing for the common defence and general welfare.

Sir, much confidence as I have in Congress, after witnessing the fluctuations and vibrations that have passed in review for several sessions past, I am afraid your Republican Government would be prostrated, your liberties would be shortly at an end. Gentlemen talk of republicanism—they say they are real Americans in principle, and would go any lengths that was necessary, in defending our rights against oppression—and, sir, at the same time are doing the very thing our lasting and inveterate enemy, Britain, would wish them to do; and the very thing, if adopted, that will strengthen her power, and inevitably accelerate the dissolution of Government. What did that able statesman say, who, with some gentlemen, has been considered almost oracular? I mean sir, William Pitt. Speaking of the American policy: "Let them adopt their funding system, and go into their banking institutions, and their independence is a mere phantom." Sir, keep close to your chartered authorities, or the most direful evils await you. If you are at liberty to twist that instrument, on which the perpetuity of your civil liberty depends, into any shape the caprice of party may think proper, you may calculate on your boasted institutions being of but short duration. If your Constitution is defective, amend it. The manner is pointed out, and which is certainly much safer, than to slide into the dangerous doctrine of implication. If you can multiply and link together remote implications, you may from the same parity of reasoning take in every object of legislation that comes within the whole scope of the political sphere.

Sir, it is not only astonishing, but painful, to behold gentlemen, who on former occasions were loud against the doctrine of constructive powers, now its warmest advocates. They come forward with the greatest ardor imaginable, in support of a measure that has nothing in the Constitution on which they can bottom it, without laying hold of the dangerous doctrine of implication. The Federal gentlemen have the same justification for the adoption of this measure that they had for the adoption of the alien and sedition laws. The doctrine of implied powers will hold them out.

But, sir, their object is to pull down the Administration and Republicanism—ours to support it. The minority is not responsible; the majority has the whole responsibility on their shoulders; consequently ought to act with great circumspection. Sir, what were the causes that produced a change of administration? Was it not Constitutional enroachments and abuses? Most unquestionably it was. And will gentlemen wantonly steer their bark against the same rock, on which the former Administration split? Rest assured, sir, that the people of the United States will not tamely look on and see their sacred bill of rights trampled under foot. No, sir; when they discover a disposition in the public agents to fritter away their Constitution into a mere cypher, they will rise in their majesty, and in a Constitutional way apply the proper corrective. They will tell you, gentlemen, that you have betrayed the trust reposed in you, by abusing the powers delegated to you; that you must give place to more able and safer hands to steer the national bark.

Well, sir, as to expediency, we are told that inevitable ruin would follow a refusal to renew the charter of the Bank of the United States, as it is improperly called. Pray, sir, in what way have the United States a single cent of money or interest in this bank? Certainly none. Does she not merely lend her name, and by that foster speculation? Most unquestionably she does. For, sir, I can view it in no other light, than a complete system of speculation. A system, sir, that has drained a considerable portion of your precious metals from your country. Has there not, within less than twenty years, nearly nineteen millions of dollars, dividends arising from this colossal bank, been principally sent out of the country to fatten the European shareholders, who are the principal stockholders? For, sir, I believe it will not be denied, that about three-fourths of this ten million capital belongs to foreigners, and principally to the citizens of the island of Britain; the balance, in all probability, principally to her agents and partisans in this country. For I recollect that on a former occasion, a gentleman from Virginia laid a resolution on the table for consideration, that contemplated making the shareholders known, and that extraordinary opposition was manifested by the other side of the House; I presume, lest the measure should become more unpopular, when it was ascertained that nearly the whole of the capital stock belonged to Britain and her partisans.

Mr. Speaker, money is naturally calculated to command influence. Then what must be the influence wielded by this ten millions of capital in the bosom of our country, and held principally by our lasting and inveterate enemy? This is one of the engines, and no inconsiderable one, that is set to work, in order to overturn civil liberty, and which will, in all probability, unless checked by timely resistance, go lengths in producing the effect: and, sir, from the influence it has already obtained in different sections of the Union, and the ardent manner it is advocated, I should not be surprised, if the renewal of the char-

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ter should take place—if it should ultimately make its way into the National Councils. Let gentlemen reflect on the hardihood of the agents of this bank. They come forward in the face of the nation and openly offer to bribe its councils with upwards of a million of dollars for the renewal of the charter; for, sir, I may be wrong, but I can view it in no other light than as a bribe in order to obtain the name and sanction of Government to carry on their destructive speculations. I have no doubt but that George the Third is a principal stockholder in this bank, and I believe, rather than not succeed in obtaining a renewal of the charter, that he would authorize his agent in this country to bid up several millions: because, sir, he has never pardoned us since our independence, and by this means he would necessarily calculate on effectuating his nefarious purposes of overturning your Government and bringing you under his power again, and which would be a much safer method than encountering the Americans in arms, for of that he became extremely tired when we were in a state of infancy.

But it is said, that this bank can be of infinite service to Government, in making her deposits in, and in case of necessity to borrow money from, to answer governmental purposes. Indeed, sir, if we continue temporizing and playing the losing game much longer, we will have but little to deposit. And would it not be as safe to make the deposits in some of the State banks as in this foreign bank? For we must be in a desperate situation indeed, if it would not be equally as safe to trust ourselves as to trust foreigners, and the very ones who are oppressing us, and whose interest as well as inclination is to oppress us in every imaginable way. And, sir, as to the obtaining of loans in case of emergency, I would much rather be dependent on my own Government—on the citizens of my own Government, than a foreign Government or its agents, and especially one that is at war with us; for I deem it tantamount to war, when they are perpetually plundering our property, impressing and ill-treating our countrymen, as well as depriving us of important inherent rights, the liberty of the seas. This measure perhaps may be a convenience in our fiscal concerns, in the collection and transmission of revenue; but, sir, there is no danger of the wheels of Government being stopped for it. And, sir, I should regret extremely, if it was as has been insinuated, that the existence of our Government depended on foreign capital; I should regret extremely indeed, if we held our rights, privileges, and independence, on so uncertain a tenure. No, sir; in my mind Government can be carried on equally as well without this darling bank as with it; therefore it is time to abandon this destructive system. I confess, sir, that I am not very favorably disposed to banking institutions; I view them as in direct hostility with the principles of our Government. But if we must have banks, in the name of common sense, let us have a bank of our own, with home capital and not foreign, and one that will not import foreign influence—for God knows we have enough of it

among us already—and one that will not extract the wealth from your country and export it, not undermine the foundation of your liberty. Well, sir, on whom is this ruin, that is spoken of in such lively colors, to fall? Why, sir, it is to fall on a few speculating merchants, who have been so incautious as to become involved in debt, in consequence of wishing to carry on extensive speculations, therefore borrowed freely of this foreign bank, the calling for which sums would in all probability bring on bankruptcies. These are not the people that I would make any considerable sacrifice for. They are not deserving it. Government has already made very considerable sacrifices in attempting to comply with their memorials and petitions respecting the protection of commerce: and how have they been rewarded? Why, sir, by flying in the face of authority and trying to bring the laws of Government into ridicule. Yet they are the few that are to be favored at the expense of the many. But notwithstanding their reprehensible conduct, there are respectable exceptions. I speak of the speculator, not of the honest and fair trader.

I wish not to be considered an enemy to commerce. The reverse is the fact. I am a friend to it to a certain extent; as an auxiliary to agriculture; but I never wish to see it have the ascendancy in Government, to sway the National Councils, and give law.

But, sir, if the evils will be so great at this time on a failure to renew the charter, what will they be at the end of twenty years, the time contemplated to extend it? For it is reasonable to suppose, that the evil will increase in equal ratio for twenty years to come, as it has for twenty years past. Agreeable to this a renewal will be tantamount to a perpetuation; for, agreeable to the doctrine held forth by gentlemen, a failure then to renew the charter would engulf the Government in ruin, and overturn the fabric of liberty. Who are to be favored particularly by the continuance of this destructive system? The speculating mercantile class, I may say exclusively. And, sir, if they increase in extravagance and arrogance for twenty years to come in equal ratio with what they have for a few years past, nothing will satisfy them short of swaying the National Councils, and giving law to Government, and making everything subservient to their cupidity. Sir, I hold commerce essentially necessary, and would go as far as reason would justify in the protection of it, but I am for keeping it directly within the pale of reason, and not suffering it to drown everything in the whirlpool of its power.

Are not Government well aware that this large foreign capital, in the bosom of our country, has an extraordinary influence in certain sections of the Union in our elections, the keeping which pure ought to be an object of the first magnitude? How was it, sir, formerly in New York? Did they not, in consequence of this moneyed aristocracy, give complete tone to the elections? and, sir, was it checked until Burr surreptitiously obtained the Manhattan Bank, under the mask of watering the city, which formed a counterbalance? And when

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it obtains an influence in your elections, you may necessarily calculate on its making its way into your National Councils; then everything must bend to this monstrous speculating institution, your Constitution not excepted.

It will be said, no doubt, as I am from the West, where banks are not common, that I am unacquainted with the nature and operations of banking institutions. Sir, I do not pretend to go into detail; practically I acknowledge I am unacquainted with them; my information on subjects of this kind is principally theoretical. But, sir, I am sufficiently acquainted with the nature and operation of them to convince me that they are systems of speculation, calculated to suit the speculating and mercantile class at the expense of the agriculturists—at the expense of those who are the support and sheet anchor of your Government. How is it, sir, when your banks break, which has been the case in several instances, in some of the Eastern States? The Farmers' Exchange Bank of Rhode Island, when it was ripped up, had but some odds of forty dollars in its vaults. The Berkshire and Northampton bank, both of Massachusetts, when their vaults were examined, one had perhaps thirty or forty dollars in it, the other, I believe, was entirely empty; and the Coos Bank, (I believe it was called,) of New Hampshire, was nearly in the same situation, and thousands of their bills in circulation at the time. Well, sir, who were the sufferers? The note holders, the people at large. And, sir, as it is a system of speculation, when they have emitted bills to the amount of their limitation, where they are limited, they may break (as the saying is) full handed, and the weight of the shock falls on the note holders, who are principally agriculturists, as they compose eight-tenths of the people.

But, sir, the accounts of the speculations, impositions, and I must add, swindling and corruptions, that have been practised in the East, under the head of banks, have reached the West, and the people, notwithstanding they have, by some of the Eastern gentry, been deemed scarcely in a state of civilization, have sympathized with their Eastern friends, and have regretted that turpitude had become so deeply rooted in the East, in the line of banking, where all but exclusive civilization was claimed, and which has made them cautiously guard against the possibility of being engulfed in a similar vortex. But, sir, if gentlemen would cast their eyes emphatically over the history of the West, I suspect they would not only find civilization, but pure patriotism; patriotism, sir, that would not fade before the sun; they would find the people uncontaminated with foreign partialities, prejudice, or influence, and where the last torch of liberty would be held up on the continent as a terror to tyrants.

Mr. Speaker, perhaps I am mistaken, but I view this measure as the greatest test of political principle that has been on the carpet for many years back, and if adopted, federalism, or if gentlemen please, aristocracy, will regularly progress, and finally obtain the ascendancy; republicanism

will have to take the back ground, and ultimately be prostrated; your boasted institutions will only figure in the pages of history, like ancient republics, as a mournful monument of the fall of man, and a sorrowful memento of his degraded condition: therefore, in my mind the adoption of this measure would seem like committing a most horrid treason against the principles of the Constitution and civil liberty, consequently I consider it not only the true interest, but the bounden duty of every man who has any pretensions to friendship for the American Government, or civil liberty, to assist in strangling this infant Hercules in the cradle, or at least preventing it from coming to maturity. If this measure was only calculated to perpetuate the memory of its founder, I should not so much object to it, but then I should think it unnecessary and improper; but, sir, it will do more, it will further the views of Federalism by increasing their power, and assist them in overturning the present system of government, on the ruins of which they will calculate on raising one more congenial to their purposes.

Mr. Speaker, from my present impressions, I think it would be more advisable, if the British Government should not rescind their destructive measures affecting our rights, and do us justice, rather than renew the charter of the Bank of the United States, as it is called, thereby furthering their views on this country, to lay our hand on the capital stock, or at least so much as belongs to the citizens of the Island of Britain, in order to indemnify us in part for the damages we have sustained by British outrages; and, if it becomes necessary, (as I presume it will,) to make use of it in defraying the expenses necessary in the subjugation of the North American provinces, which will have to be resorted to, if you wish to give peace to the land. For I have no hesitation in saying, that while this large foreign capital is in existence in your country, and the British hold their North American possessions, that British principles will be disseminated, that Federalism, if gentlemen like the term better, Aristocracy, will regularly progress and finally convulse your Government to its centre. You may rest assured, sir, that if the charter of the Bank of the United States is renewed, it will prove a powerful weapon in the hands of our enemies, and will be calculated to rule the Government, instead of the Government ruling itself. Then, sir, is it not high time that the accounts of this colossal speculating institution should be suffered to close, by letting the charter expire on the third of March next, that we may know whether this Diana of the Ephesians be a goddess of solid silver, or only of clay silvered over?

Sir, much has been said about the want of capital. If gentlemen would cast their eyes around and examine our resources, they must be fully apprized that we have capital adequate, and beyond our wants; then is it not time to cut asunder those leading-strings, by which corruption has led credulity? Yes, sir, it is not only time that we should have the name of freemen, but be so in reality.

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Sir, in justice to my own feelings, and the future prosperity of my country, I am bound to vote in favor of concurring with the Committee of the Whole in striking out the first section of the bill.

Mr. KEY.—Mr. Speaker, this House, in Committee of the Whole, having struck out the first section of the bill in relation to the charter of the Bank of the United States, and thereby defeated the bill; and this House being called upon to concur with or reject the vote of the Committee, a question of the utmost magnitude and importance is presented to our consideration. Few subjects more deeply affect the welfare and prosperity of our country, and none deserves a more calm and temperate investigation. I shall not attempt to excite the feelings of the House by painting the scenes of distress that will probably flow from a non-renewal of the charter, but address myself entirely to your understandings.

All parties seem to concur in the utility and convenience of the bank to aid the collection and payment of our taxes and revenue, to safe-keep the amount and distribute it when wanted. But many deny that we have, under the Constitution, a right to incorporate a bank even for such circumstances. I have listened with pleasure to the arguments urged by those who deny the right, and have weighed them with attention, and soliciting the same indulgence from them in return, I do not despair of producing conviction.

I shall contend that we have a right to create a National Bank, and that it is our duty to do so to avoid the general calamity that will result to the country if we fail to do it. I beg of gentlemen to take the Constitution in their hands, and follow me step by step, while I demonstrate the existence of the right.

The eighth section of the first article of the Constitution contains the grant of powers given to Congress to enable it to conduct the affairs of the Union. The powers given are enumerated and specified, being eighteen in number. In the first we find these words: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States." These words give to the United States a definite, explicit power "to lay and collect taxes, duties, imposts," &c.; the only qualification of the power is, that the duties and imposts, not the taxes, shall be uniform. The eighteenth enumerated power is, "for Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c.

The powers thus given to Congress are sovereign in their nature, and explicit in their terms of grant; but the jealousy and provident wisdom of the framers of the Constitution, knowing that the power might be abused in its exercise, have, in the ninth section of the first article, enumerated seven specific limitations or restrictions of the powers previously given. The grant of power is in affirmative terms; the restrictions are in negative terms.

The general grant of power "to lay and collect taxes and imposts," &c., given in the eighth section, is thus restricted in the ninth: "No capitation or other direct tax shall be laid unless in proportion to the census," &c.; 2d. "No tax or duty shall be laid on articles exported from any State." It is a sound rule of construction, and is founded in common sense as well as wisdom, that where a grant creates a general power, and enumerates exceptions to its exercise, that the expression and enumeration of those exceptions operate to exclude all others; because, having exceptions in view, and having specified some, it demonstrates that, if others had been intended, they would also have been expressed; this rule is so true that it has long been a maxim that "*Expressio unius est exclusio alterius*," and governs the construction of all grants and instalments in public or in private life. I am then warranted in saying, that the grant of power "to lay and collect taxes and imposts, &c.," provided the latter are uniform," is fettered or restricted by no other limitation than the two above expressed in the ninth section; and it follows that we can make any laws necessary and proper to lay taxes, if we do not violate the restrictions interdicting us from laying a tax on exports, and a capitation tax, contrary to the proportion of the census.

Mr. Speaker, an honorable gentleman from Virginia, on the Constitutional question, limits the power of Congress by what I call an interpolation in the Constitution. The words of that instrument expressly give Congress the power "to lay and collect taxes," and "to make all laws necessary and proper" to carry those powers into effect; but the honorable gentleman adds, that "necessary" means indispensably necessary. To this I answer, that the word indispensable is not used in the Constitution; the words used are *necessary and proper*. The error into which that gentleman and an honorable member from New York have fallen, is a want of precise meaning of the terms they use, or rather confounding two things in their nature essentially different. They confound the means or mode by which an end is attained with the end itself, and nothing can be more erroneous. The end, or power given, is to lay and collect taxes and pay the public debts; the power to make laws necessary and proper to effect that end is also given, and consists in devising and establishing the means of accomplishing it. The means to accomplish the end are no where restricted. All the restrictions are upon the power. The means or mode by which the collection is to be effected, is left to the wisdom and discretion of Congress making all necessary and proper laws for that purpose. I lay down this proposition as universally true, that where a power is given to do a particular act, as "to lay and collect taxes and pay the public debt," that it necessarily results that the party to do the act may do it by any mode or means he pleases (if more means than one exist,) if such mode or means are not prohibited; and I further state that the party in executing the power is imperatively bound to use the means best adapted to ac-

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comply the end. If, then, which seems generally admitted, a bank is useful and necessary in the collection of taxes and imposts, and payment of the public debt, and is the best mode of effecting it, the creation of a bank for such purposes is definitely within the power of Congress; and, more, it is the bounden duty of Congress to establish it, because they are bound to adopt the best practicable, or in other words necessary and proper, means to collect the tax and imposts.

If more means than one exist to carry a power into effect, neither can be said to be indispensably necessary, because either may be adopted to the exclusion of the other; and this mode of reasoning pushed far proves, that, where more means than one exist to execute power, the power is a dead letter.

That the creation of a bank is a means to excite a given power, and not the power itself, will follow from a careful view of the subject. Here my opponents and myself are precisely at issue. They say the creation of the bank is a power not given by the Constitution. I state it to be a means of executing a power given, and not the power itself. Let sound reasoning test our principles—what is a power, but an authority to attain a given end? What is the power given in this case? Let the Constitution speak for itself—“to lay and collect taxes, imposts,” &c., and pay the public debts. Now the power and the end are express, definite, and precise—there is but one power and one end; human ingenuity can make no more out of the words of the Constitution—but there are many means by which the power may be executed, by which the end may be attained, and those means are vested in Congress, by the power expressly given them “to make all laws necessary and proper to execute the powers before enumerated.”

Congress is a body politic and incorporeal, and must use some agency or means to carry a power into effect. To do it in this instance by the agency of a bank is one means; to do it by the appointment of officers to collect the taxes is another; to make the debtors themselves pay into the Treasury is a third. Now is it not an equal exercise of power, to create and appoint officers to collect, preserve, and pay away public money, as to create a bank for that purpose? The power is the same, though exercised in a different way; but the mode of its exercise does not affect the nature or essence of the power—this is most clear; and I ask gentlemen, in the sense they use the word, where is the express power in the Constitution to appoint and pay officers to collect taxes? Certainly it grows out of the power “to make all laws necessary and proper,” &c., and is no where else to be found; then the necessary consequence is, that the creation of a bank, or the creation of officers, to collect taxes and imposts, &c., is not a Constitutional question, but of sound discretion, as most suitable to promote the public good, and the House has power to adopt either, as in their judgment shall be found most necessary and proper.

Now, for the great objects of economy in col-

lection, safety in keeping and facility of paying it away, as and where the exigencies of Government require, a bank has a decided preference over the appointment of a multitude of officers, with salaries or commissions; the chance of negligence; the risk of loss, and most insuperable difficulty and embarrassment of transmission at home or abroad.

I trust, Mr. Speaker, that I have shown that correctly viewed, the creation of a bank is a means, not an original power; that, as a means it is best adapted to the end or execution of the power, and that, to attain the end, a full, express, definite grant of power is given by the Constitution. But, sir, I ask, is our Government never to settle down to stability—an object so desirable and so important to the happiness of the people? If, from the inexplicitness or imperfection of language, doubts have existed, which have been decided by the concurrence of this House, the Senate, and the illustrious Washington, in the exercise of their Constitutional functions; and twenty years last past have exhibited a practical commentary on the Constitution, ought we not now to regard it as sacred?

Has not Congress, and have not all the States, sanctioned the legitimacy of the bank, by passing penal laws against counterfeiters of its paper? Have not many of the judiciaries inflicted imprisonment and deprivation of liberty on offenders under those laws; and are we now to be told, that the original law which induced all these punishments is unconstitutional and of course no law? But, sir, I will not repose my argument on the fact of long acquiescence in the States, nor of acquiescence under the Administrations of Washington, Adams, Jefferson, and Madison; I will advance a step further, and show that this House, under the Administration of Mr. Jefferson, and that Mr. Jefferson himself did under his own hand acknowledge the legitimacy, and consequently the Constitutionality, of the bank. In 1804, Mr. Nicholson, of Maryland, made a report authorizing the Bank of the United States to establish an office of discount and deposit at New Orleans. A bill was drawn, it passed this House, it passed the Senate and was signed by President Jefferson the day it was presented to him. It was entitled “An act supplementary to the act entitled an act to incorporate the subscribers to the Bank of the United States.” Here let us pause—it is really ludicrous, sir, to see the gravity and wisdom of the nation engaged in passing a supplement to an unconstitutional law. One would suppose, sir, that if the original law was brought into view, if deemed unconstitutional, the object of bringing it into view would be to repeal it—but what was the fact? Why, the very reverse took place; instead of repealing it they enlarged the powers of the bank.

Now, sir, I call on honorable men to answer me with precision—to meet two questions in the teeth; 1st. Was it not as unconstitutional to enlarge the powers of the bank, as originally to create it? 2d. Is not the enlargement, so far as it goes, a new creation of power? Gentlemen

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cannot escape from these questions by saying that the bank had this power before the act of 1804. I deny it; but for the sake of argument, be it so. Then, I ask, why was that supplement passed? And was not the passage of the supplement a direct affirmative recognition of the power, if already in the bank, and to give it to them, if they had it not?

Sir, I will trouble the House no longer on this part of the subject—I trust I have satisfied gentlemen that we have authority to create a bank under the Constitution; that this authority has been acted on by Federal and Republican administrations; and the United States and the States have acquiesced in it, and sanctioned it many years without murmur or remonstrance.

Mr. KEY then proceeded to examine the question on the ground of expediency, &c.

Mr. PICKMAN.—I acknowledge, sir, that I feel very anxious to have the charter of the United States Bank renewed. Not from any personal interest which I have therein—for I have none. Nor from a regard to the interest of the stockholders, for I consider that very unimportant, when compared with the interest of the Government, and of the community. This question has acquired an artificial importance from the manner in which it was originally discussed and in which it has been discussed at this time. It has been treated as a great Constitutional question, when, according to my view, it involves no great Constitutional principles. Ingenuity has surrounded it with a mist of sophistry which has obscured it, and presented it to the mental eye through a very delusive medium. I shall not attempt to follow the gentleman from New York (Mr. PORTER) in all his nice and ingenious distinctions between the powers vested in the Federal and State Governments, nor in his metaphysical refinements on objects, ends, powers, and means; but shall leave that task to gentlemen of more industry and more talent than myself. His observations, however, on the position laid down by the late General Hamilton, in his celebrated argument on this subject, appear to me so extraordinary that I cannot forbear to notice them. The position is, that every power vested in a Government is in its nature sovereign, and includes by force of the term a right to employ all the means requisite, and fairly applicable to the attainment of the ends of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the essential ends of political society. And to prove that the powers of the Federal Government, as to its objects, are sovereign, the following clause in the Constitution is considered as decisive: "That the Constitution, and the laws of the United States made in pursuance of it, and all treaties made or which shall be made under their authority, shall be the supreme law of the land." Now the words supreme and sovereign are synonymous terms; if there be any difference, the word supreme is of the highest import, it being frequently applied to the Almighty himself. But the gentleman from New York (Mr. PORTER) as

I understood him, observed that the power to pass the supreme law does not give the Government sovereign power, for the highest law which any Government can pass is a law to inflict the punishment of death. The sheriff who exercises this law, said he, is not therefore possessed of sovereign power. Certainly not; he is only the instrument of the sovereign power, as much so as the axe or the halter with which he executes the sentence. But "the Government is not sovereign because it is made to depend in some degree on the State Legislatures"—if they were to omit to appoint Senators the Government would die a natural death. If they were to neglect it they would violate their oath to support the Constitution of the United States. But "the sovereign power is in the people." The sovereign and the physical power are often confounded together. The people in their collective capacity are as much bound by the immutable rules of justice as each one is in his individual capacity. The people of the United States are under a Constitutional and moral obligation to support the Federal Government—and it is not proper to presume that they will omit to do what it is their duty to do, and found an argument on such presumption.

But, to return to the subject of the bank. If we consider, sir, what are the purposes for which it was established, and what are the privileges with which it is invested, we shall, I think, find that the former are not only Constitutional, but highly necessary, proper, and useful, and that the latter do not interfere with State rights. The Constitution of the United States vests Congress with the power "to lay and collect taxes, duties," &c.; "to pay the debts, and to provide for the common defence and general welfare of the United States," "to borrow money on the credit of the United States, to regulate commerce with foreign nations, and among the several States, and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." It is, therefore, the right and duty of Congress to facilitate, and to render as certain as possible, the collection of the revenue. It is their right, and their duty, to provide places of safe deposit for the public moneys. It is their duty to discharge the public engagements with punctuality and good faith, and, if possible, to provide the means of transmitting the public moneys from one place to another, as the public exigencies may require, without the risk of loss to the United States. Has not the bank answered all these highly important and necessary purposes? Can they be so well accomplished by any other means? I presume not, for the ingenuity of those who oppose the renewal of the charter—and certainly, sir, they have displayed much ingenuity—has not suggested a plausible substitute. It is surmised that the public moneys may be transmitted from one part to another in specie, which may be carried by land, or sent by water in Government vessels, or, that it may be done by the private drafts of merchants. The objections to these modes are too obvious to render it necessary to enumerate them. It is suf-



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ficient to say that each of them would subject the United States to frequent losses, and the Government to constant disappointment. But, it is thought by many that the fiscal concerns of the Government may be conducted through the instrumentality of the State banks; and, in fact, it is the interest of the State banks which excites much of the opposition to the renewal of the charter of the United States' Bank. In my opinion, however, it is an erroneous view of their interest. I apprehend that many of them will sustain a shock from the suppression of this institution, from which they will never recover. How can the public business now done by the United States' Bank be executed by the State banks? Congress have no control over them, are ignorant of their funds, unacquainted with the conditions on which they were granted, and of the principles by which they are governed. Some of them are, undoubtedly, entitled to confidence, but many of them are not. It would be imposing on the Secretary of the Treasury an invidious task and a most unpleasant responsibility to make a selection. In every view which I can take of the subject, it appears to me that it would be the height of imprudence and indiscretion to suppress the Bank of the United States and deposit public moneys in the State banks. If, however, the privileges conferred, and necessarily conferred on the United States' Bank are unconstitutional, then it is our duty to suppress it. Let us candidly consider what these privileges are. The greatest, in my opinion, is, that its bills are receivable for duties. I do not know that any one has pretended that Congress transcended their powers in conferring this privilege. It is this, however, and this only, which gives its bills a circulation throughout the United States; it is this which enables it to transmit large sums from one extreme of the Union to the other, as the exigencies of the Government require. Nor do I see how this necessary privilege could be conferred on the State banks. Certainly, it would not be safe to give it to all of them, and if you were to select a few it would excite the most serious discontents. Besides, it is necessary that the banks between which this intercourse is to subsist, as that of drawing upon each other, should have a common parent to regulate their affairs, and to secure them from ruin from unexpected and, of course, unprepared for drafts. It is necessary, in fact, that there should be such an institution as the United States' Bank, and the only question is, how shall it be established? By the State Legislatures, or the Federal Government? But, it is said that the establishment of branches in the different States is a violation of the State sovereignties; and the gentleman from New York (Mr. PORTER) says it is so, because the States have laws against usury, and that the banks make more than lawful interest upon their capital, and thereby violate the law of the States. This objection applies to all banks. Now, so far are the banks from having practised or encouraged usury, the suppression of it may be considered as one of the best effects of their establishment. The United

States' Bank is restrained by their charter from letting their money at a rate exceeding six per cent., and I believe that this is not usury in any of the States. In some of them the legal rate of interest is higher. Their profits over six per cent. are what they make as bankers, and not as money lenders. It is said to violate the State laws because the persons and private property of the stockholders are not made responsible for the payment of its notes. This is the case with every artificial person. He is not accountable in his private capacity for the notes which he gives, or the contracts which he makes as such. The stockholders of the bank may be considered as public agents, and, as such, it would not be reasonable to subject their private fortunes to the payment of its debts unless they abuse the trust reposed in them. Such a responsibility would render it impossible to establish the institution; nor is it necessary for the public security; for it is next to impossible for a bank with such funds to become insolvent if its affairs are honestly and judiciously managed. If they are otherwise, no guards will afford security to the public.

It appears to be thought by many, that, because the State Governments have a right to incorporate banks, therefore, the United States' Government has not the right. Now, it is an implied power in the State Governments, for there is no such power expressly delegated to them in any of State constitutions. They assume the right because it is not prohibited to them. Upon the same principle has the United States' Government the right to establish a bank, provided it be necessary to the accomplishment of the purposes for which the Government was instituted. I again inquire, Mr. Speaker, if the fiscal operations of the Federal Government do not require such an institution? Has not the experience of twenty years fully evinced its utility to Government? Have not the public moneys been safely kept? Have not large sums been continually transmitted from one place to another as the public exigencies have required, and without loss to the United States? Why, then, suffer an institution which has done so much good—which has proved so safe and so useful—to run down, and trust to precarious and unpromising substitutes? But, while I am anxious to have the charter of this bank renewed from a full conviction that the fiscal concerns of the Government cannot be managed with convenience or safety in any other way, I feel infinitely more anxious that it should not be suppressed at this time, on account of the community at large. Such an event must, in my opinion, be productive of the most distressing consequences.

Perhaps there has never been a period when our merchants were more embarrassed than they are at present, and when it was more difficult to raise money. They have large funds in England, but at present there is no demand for exchange upon that country. They have large quantities of imported merchandise, but the prices of most articles are merely nominal. The bank has seventeen millions of dollars due to it from

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the United States and individuals. It has to the amount of five millions of dollars in gold and silver in its vaults. There is due to it from the State banks about two millions of dollars on their bills and on deposits. It owes about fourteen millions of dollars, payable on demand, and it will probably be very soon called upon for this money. To fulfil its own engagements, therefore, it must immediately call for seven millions of its debts, and within a short period for the remaining ten millions. And this last sum must eventually be paid in specie. Whence is this specie to come? From the vaults of the State banks, if it be there. For the payments to the United States' Bank will be in bills of the State banks. These bills will be immediately sent to those banks to be exchanged for specie; thus they, instead of having it in their power to aid the debtors to the United States' Bank, as some erroneously suppose, will be obliged to call on their own debtors; and every specie dollar taken from a bank may, and probably will, oblige it to call for two or three dollars of its debts. It does not appear to me unreasonable to suppose, that, by compelling the United States' Bank to call in the seventeen millions of dollars due to it, we shall compel the State banks to call in as large, if not a larger sum. How these payments are to be made, and what effects are to result from such a state of things, I pretend not, sir, to sufficient discernment to foresee. It will probably produce a general suspension of the payment of debts and an almost total stagnation of business. It will greatly depreciate the value of every species of property, and thereby reduce many persons to insolvency who flatter themselves that they have much more than enough to pay their debts. It will raise an enormous demand for money, and, of course, throw many persons into the hands of the griping usurer. It will distress all classes of people except the moneyed capitalist. If, in addition to this measure, our non-importation act should go into effect, thousands must be overwhelmed by ruin. The shock may first be felt in the seaport towns, but will ultimately extend to the remotest villages in the country. I deem it, sir, a very unfortunate circumstance, that our paper circulating medium so greatly exceeds the amount of our specie; that so large a portion of it is the representative of lands, houses, and merchandise, instead of being the representative of gold and silver. But this is not the fault of the Federal Government; it is owing to the numerous banks which have been instituted by the State governments. This furnishes to my mind a strong argument against the institution of banks by the States, and in favor of the power being vested in the Federal Government, which superintends the affairs of the United States. As I have before observed, our paper circulating medium dangerously exceeds our specie; should we adopt a measure which will affect its credit, it will produce consequences which none of us can foresee. On the other hand, by continuing the bank, we tread upon perfectly safe ground; twenty years experience of it has proved that it is calculated

to answer all the purposes for which it was established. It has proved very useful to our merchants and to the community at large, not only by furnishing loans, but also by supplying a medium which circulates throughout the United States, and thereby renders it much easier for the merchant of the Northern States to purchase the productions of the Southern States. It may be truly said, that it has aided the agriculture, the commerce, and the manufactures, of our country. Its affairs have generally, if not uniformly, been conducted with fidelity and ability. Yet we are about to suffer this valuable institution to fall. We shall thereby compel the Secretary of the Treasury to have recourse to untried, troublesome, and hazardous expedients for the management of our finances, and we shall probably lead many of our fellow-citizens into ruinous speculations. It is absurd, after the experience we have had, to ascribe to it any great political influence. It was established by the Federal Republicans when they were the ruling party. It has always been under their management. Yet, with this monstrous engine in their hands—this engine which is to govern the Government—their political opponents have gained an absolute and uncontrollable ascendancy. Continue it, sir, and you will probably do much good. Suppress it, and you may bring on incalculable evils.

Mr. W. ALSTON said, that the motion to strike out the first section was undoubtedly a fair way of attacking the principle of the bill; but as the same motive, even if he did hereafter vote against the bill, would not govern him as it had other gentlemen, he begged leave to state the reasons why he should vote against the motion. It has been contended, said he, by gentlemen who have gone before me in this debate, that the Constitution did not authorize Congress to continue this charter, or to have created it in the first instance. I am opposed to this doctrine of the restriction of our powers, because I believe, if practised upon to the extent that gentlemen of great talents contend, the Government itself cannot get along. I do not believe that gentlemen can put their finger on the Constitution and show their authority for a number of acts which we are compelled to pass, any more than they can put their finger on the particular passage which authorizes the granting this charter.

Sir, we are met on the threshold of this question by the gentleman from Virginia, (Mr. BURNWELL,) on Constitutional grounds; and I will take the argument of that gentleman alone, and I think can prove that he himself has given up the Constitutional question. In the clause which many gentlemen have called the sweeping clause in the Constitution, I find these words: "Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." The gentleman, well satisfied that this clause confers the power, attaches to it, to make it the more important, the word "*absolute*—

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ly" before he is able to give any weight to the construction for which he contends. I have examined the Constitution over and over again for the word *absolutely*, and can find no such word. Where, then, does the gentleman get it from, but from the very same source that he charges on the favorers of the Constitutional right to pass the law? It is by implication that he calls in the aid of the word *absolutely* before *necessary*. With what propriety, then, can he refuse to others the exercise of the same right that he himself has taken? If gentlemen have the right to interpolate this word, why may we not as well interpolate others? It is denied that the doctrine of implication can apply with regard to granting charters. If it can apply in any way, why not in this way? If I can show to the House that it might apply in some cases, or it will be impossible that you can execute the object of the Constitution, why may it not as well apply in the case of granting charters as in any other. I ask gentlemen to put their finger on the clause of the Constitution which authorizes them to pay away one cent of the public money? How do they get at the power but by implication? You have a power by the Constitution to pay the debts of the United States—but that part which provides for the payment of debts, means debts already contracted, and owing at the time of the adoption of the Constitution; that, too, is in the sweeping clause, which gentlemen will certainly not avail themselves of. But you have not the power expressly given to create a debt, other than the clause which authorizes you to borrow money on the credit of the United States; but none will contend by this you are authorized to make contracts and go in debt. There is an important clause of the Constitution, which gives to the United States power to call out the militia of the States for particular purposes. Show me the spot in the Constitution which authorizes the payment of the militia. Not one. The power to call them out implies the power to pay them. It inevitably follows, that the power to lay and collect taxes and raise a revenue implies the power to take care of it. Will gentlemen pretend to deny it? What is the argument of gentlemen on this point? They say it is true that a bank is necessary for the safe-keeping and paying the debts of the United States; but, say they, the banks of all the States are open to you. How does this doctrine apply to the United States? Have not the States themselves denied the connexion of the State and Federal Governments? Can I quote a State which does not afford an example of this disposition? The seat of a gentleman of high standing in the Legislature of Virginia was vacated merely because he was a contractor for carrying the mail. Will then the State of Virginia, who is so jealous of your influence over her officers, permit you to exercise that influence by placing your money under officers created by her? Let gentlemen examine this question. The argument will not bear them out. In the State which I represent, also, a law has been passed to prevent a person from holding any

office or appointment at the same time under the State and Federal Governments. What right have the directors in a State bank, appointed by the State, to contract with the General Government to keep its money? I deny their right.

Putting the State banks out of the question, it is necessary that we should create means by which we can transfer the money of the Government without expense, hazard, or loss. I will state a case. We have an army in the city of New Orleans, which must be paid. By paying the money at Baltimore or Philadelphia, it is transferred to the paymaster at New Orleans without costing you a cent. Is not this convenient, expedient, necessary, to comply with the interest of the United States in the case I have stated? I do not believe it possible, taking the ground that they have the right to place money in the banks of the individual States, that such a connexion between them could ever be established with the same ease, convenience, and safety, as at present, to pay, in the different parts of the Union, money which the United States are bound to pay. I ask the question, Will a bank in North Carolina trust a bank in New Hampshire? No; but the State and every individual in it would trust the Bank of the United States. You could not establish a connexion between North Carolina and New Hampshire so that either would trust the other. The establishment of the Bank of the United States affords, in this case, a facility useful and absolutely necessary, in my opinion, to carry on the measures of Government. How will putting down the Bank of the United States have an effect to lessen the quantity of paper in circulation? If I could think so, I would join the gentleman most seriously; but the very contrary, in my opinion, would be the effect. The Bank of the United States and its paper serves as a controlling power, keeps the State banks in proper bounds, and prevents them from issuing a vast quantity of paper which would inundate the country. They are very confident, if they issue too much paper, that there will be a run upon them, because the interest of the United States' Bank and the State banks do not at all times go hand in hand. At this time it certainly restrains the circulation of State bank paper.

It is said, sir, that the States are not compelled to do particular acts which they are required to do. To be sure, the States have the physical power, but they are bound by the same solemn oath to carry into effect the Constitution of the United States, that the members of this House are. It may as well be said that the State Legislatures may, if they choose, refuse to appoint electors to vote for President and Vice President, or elect Senators; but the obligation upon them is as strong as upon any other department of the Government, as it is upon the members of this House to perform its duties. They have taken a solemn oath, and must perform its obligations.

Sir, there is one part of this Constitution, which, in my humble opinion, gives the power completely. It is a part of the Constitution

which I never heard any gentleman mention, nor any writer on the subject. I may put an erroneous construction on it, but, if I am correct, the conclusion is inevitable. In the 10th section of the first article, it is said, "No State shall coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts;" and the interpretation which I give to it is that the *United States* possess the power to make anything besides gold and silver a legal tender. If this, then, be the correct construction, it is a clause which I have never before heard relied on. If what I conceive to be the fair interpretation be admitted, it must follow that they have a right to make bank paper a tender. Much more, then, sir, have they the power of causing it to be received by themselves in payment of taxes. If they have power to make paper of any description whatever receivable in payment of all debts whatever, can any one deny that they have a power to make it a tender in payment of taxes or debts to the United States? After admitting the power, will you place the exercise of it in your Secretary of the Treasury, or in the hands of fifteen or twenty men whom you call directors? But I might not have voted against concurring with the committee in striking out the first section of the bill, if I stood on this ground alone.

To the bill, in its present shape, I should have no hesitation in giving a decided negative; but there is a plan on which I would vote for the renewal. Sir, I ask gentlemen, who have voted against it on Constitutional ground, to meet me on this point—the plan is, that the additional stock shall be taken wholly by the United States; that they shall be bound to distribute it among the individual States, having respect to their relative numbers, at its par value. The States would take it, if they think proper; if taken there is an end to the violation of State rights. In a plan of this kind, a distinction is brought to the mind of every man, whether he will prefer the interest of the great body of those people who are represented in the State Legislature, or whether he will support the interest of a few who think proper to incorporate themselves for the support of a bank. The true question is, whether the emoluments of the banking system should belong exclusively to a few, or collectively to the whole United States. I therefore hope the first section will not be stricken out. In discussing the detail such a plan would be more interesting than any other can be to the States. The advantages of such a system must be seen. The anxiety evinced for the renewal of this charter and the credit of the State banks altogether, in consequence of the money made by the banking system, is then done away. The money arising from the profit of the banks will belong to the States in their individual capacity, and the taxes of every individual are lessened in proportion to its share of the capital. Let gentlemen bring the question home to them; let them examine how it concerns their constituents, and put the question, which of the two will interest the great body of the people the most?

Putting down the charter of the United States' Bank will not put an end to the banking system. Cast your eyes about you at what has taken place at the last sessions of the State Legislatures? Has one of them adjourned without establishing a bank? It is bank paper as much when issuing from State banks as when from the Bank of the United States. There is no difference. If this question had not been attacked on Constitutional ground, if it had been left merely to expediency, I should not have troubled the House on the subject. I know too little of the concerns of a bank to think of making a speech on the details alone. But I know how much interest moves us on this question. When you place money in the State banks, you give a complete license to the State banks to issue what they please. What was the loss of paper money during our Revolution? Did it not fall on those who had given credit; and are we prepared to meet such a shock as that? Could we have stood it in any other cause than that in which we were engaged? Here let me enter my protest against the banking system altogether. But we have it. Is not the consequence more dangerous; will not the loss ultimately be greater, to let the State banks issue paper at will, than to control them by the Bank of the United States?

If the doctrine which gentlemen advance about putting the finger on that part of the Constitution which gives power to carry on the Government itself be true, we may as well quit legislation altogether. You cannot go a single step without calling in the aid of implication. When a means is necessary and expedient, when the operations of Government cannot as well be carried on in any other way as by it, then it is necessary, and, being necessary, is Constitutional.

The House adjourned without coming to a decision.

MONDAY, January 21.

The SPEAKER presented a memorial of the Legislature of the Indiana Territory, stating the extreme scarcity of money within the said Territory, and the reasons of such scarcity, and praying that the land laws may be so amended as not to exact interest from the date of purchase on the several instalments not punctually paid for lands purchased of the United States.

On motion of Mr. HUBBARD,

*Resolved*, That the President of the United States be requested to cause to be laid before this House such information as he may possess respecting seizures, captures, and condemnations, of the ships and merchandise of the citizens of the United States, under the authority of the Governments of Europe or either of them, which has not been heretofore communicated.

Mr. HUBBARD and Mr. BIGELOW were appointed a committee to present the said resolution to the President.

On motion of Mr. HELMS,

*Resolved*, That the President of the United States be requested to cause to be transmitted to

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this House a return of the Army, with the stations at which garrisons are fixed, and the strength of each garrison; also, the state of the recruiting service, and the progress that has been made therein since last session.

Mr. HELMS and Mr. TRACY were appointed a committee to present the said resolution to the President.

On motion of Mr. McKINLEY,

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of altering or repealing the second section of the act, entitled "An act to annex certain shores and waters to the district of Mississippi, and to authorize the building of a custom house at New Orleans," and that they have leave to report by bill, or otherwise.

Mr. POINDEXTER presented a petition of the Legislature of the Mississippi Territory, praying that the said Territory may be admitted as a State into the Union, on an equal footing with the original States; which was read, and committed to the Committee of the Whole, to whom is committed the report of a select committee on that subject.

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This subject was called up, and Mr. NEWTON made a motion to postpone the further consideration of it indefinitely, but withdrew the motion until more members should come in, the House being thin. A short time afterwards—

Mr. GARLAND said that on this very interesting subject he thought the House ought to act understandingly and prudently. He wished that they should not precipitate the Government into difficulties from which it would be difficult to extricate themselves. He wished they should take at least a little time to reflect; that his friend from Virginia (Mr. LOVE) should be permitted to go on and take out his letters of administration, as proposed on Saturday, and see what could be done. If the gentleman could show that the Government could conveniently carry on its fiscal operations without the bank, Mr. G. said he should be ready to go with him. But, until that was shown, he did not wish a decision to be precipitated. He therefore moved to postpone the further consideration of the bill till the first of February. There would in the interim be time to see how they could form their plans, and how they would be able to conduct the fiscal operations of the Government. If a suitable substitute should be offered for the purposes of collecting and transferring revenue, it would be the means of reconciling many gentlemen to vote against the bank. He hoped therefore the postponement would be agreed to.

Mr. NEWTON said the House had had ample time for reflection on this subject. He did not believe that any alteration would be wrought in the opinions of members by a postponement. Gentlemen ought to recollect that the subject had been under consideration for three or four years past. Every one had revolved it in his mind. Sir, said Mr. N., I know these moneyed institu-

tions. I know what sort of things they are; and, after the time that we have had to consider the subject, I think it all important that we should come to a decisive determination. Let me tell you, sir, that intrigue and artifice will wear away the best principles. Ample time has been given for it already. I am for laying the legislative axe to the root of the evil; I am for immediately deciding this question, and turning to some other business; and for this purpose move that the further consideration of the bill be indefinitely postponed.

The motion of Mr. NEWTON supersedes that of Mr. GARLAND.

Mr. LOVE said he rose principally at this time to ask for the yeas and nays on this question. He thought, with the gentleman last up, that it was highly important there should be an immediate decision, and he would add to the reasons already offered in favor of it, another. It is now three years, said he, since Congress were called upon, in the most imperative terms, to act upon this subject. In the petition of the stockholders, three years ago, it will be recollected that it was stated that unless a certain assurance was given that the charter would be renewed, they must immediately commence a curtailment of their discounts, &c. We have now progressed to within about six weeks of the time when this institution will cease to exist, and yet we find, by an inspection of their accounts, that they stand very nearly in the situation in which they were at the time the subject was first brought before Congress. If this company were not to have their charter renewed, the sooner they know it the better. On the part of the Government it is important that an early decision should be had, that they may not run the risk of losing revenue to an immense amount; for who knows who is to administer on the assets of this institution? In consequence of the law now in existence, requiring deposits to be made in the Bank of the United States and its branches, there would soon be within their control, in specie and bonds, an amount of sixteen millions of dollars of the public property. Under present circumstances, it is highly proper that immediate measures should be taken to withdraw these deposits. Every gentleman before this time must have had an opportunity to make up his mind; and I hope the question will be decided without further delay. As the mind of no gentleman in the House could be changed by a discussion, it is to be hoped that the question will immediately be taken.

Mr. TROUP conceived the motion now made to be perfectly proper. He felt, however, under no obligation to accommodate the bank. The act granting an act of incorporation was entirely a voluntary act, and the duration of it limited in the act itself to a term of twenty years. If the bank had acted the part of an ordinary or discreet merchant, it would have taken care, before the expiration of its charter, to have wound up its business and be prepared to meet the event; because the Legislature was not bound to renew it, not having, either by the original charter, nor by any

subsequent act, given any pledge that it would do so. The bank not having received any pledge of renewal, ought to have been prepared for its dissolution. If the institution had done what they ought to have done, the Government, so far as it is concerned, would have prepared itself against the event, as he was told it was now about to do, by substituting arrangements with the State banks for arrangements with the Bank of the United States or its branches. Mr. T. could therefore see no difficulty in assenting to this proposition, whether as respected the Government or as respected the individuals concerned in the bank.

Mr. FISK inquired whether it was understood that deposits in the United States' Bank would be transferred to the State banks without the sanction of law?

Mr. WRIGHT.—Mr. Speaker: The importance of this subject, and the great attention that has been paid to gentlemen while delivering their opinion upon it, is a sure guarantee that I also in my turn shall receive the attention of this House, while I deliver my sentiments. I pledge myself, in this exhausted state of the debate, not to consume more of their time than a correct sense of duty to my constituents shall impose.

This subject, sir, is presented to our consideration in a two-fold point of view, as to its constitutionality; and as to its expediency. I will therefore proceed to consider it in that order.

On the point of its constitutionality I shall take the liberty to recall your attention to those parts of the Constitution on which its advocates have seemed to rely. The gentleman from Maryland (Mr. KEY) cites the 1st art. 8th sec.: "Congress shall have power to lay and collect taxes, imposts, duties, and excises, to pay the debts, and provide for the common defence and general welfare of the United States." He also read the 1st article, 9th section: "No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken." However, not yet himself satisfied with being able to derive an authority from these sections, he calls in aid the last paragraph of the section, "Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." The gentleman insists, that the power to lay and collect taxes, &c., &c., and the sweeping clause, empowering Congress to make all laws necessary to carry that power into execution, will authorize Congress to grant a charter to this bank; that it is necessary to the collection of taxes, that Congress provide by law the means whereby the taxes should be paid. I had always presumed that the power to lay and collect taxes, to provide for the general defence and common welfare, only authorized Congress, under the limitations of the Constitution, to provide by law for those purposes, by directing whether the tax should be a direct or indirect tax, or by capitation; and that their powers extended no farther than the specification of the objects, if the tax was direct, and

the rate at which the specific articles should be valued; in the case of a capitation, what should be paid by the head; and in case of indirect taxes, what should be the duty on the several articles taxed, and, in either case, to direct the mode of ascertaining and collecting the same, by whom to be ascertained, and by whom collected, and to whom paid. But I never did suppose that this power, even aided by the sweeping clause, could be conceived seriously to extend to the providing means to those who had to pay the tax, whereby they were to be aided in the payment. Such a construction would as well justify the passing a law compelling the culture of land in a particular way, whereby the crops might be increased; as the farmer cannot pay his tax, unless he raises produce for sale; or indeed it might be extended to compel him to use plaster of Paris to improve his crop, and facilitate the payment; which I should deny, even if the tax was made payable in produce.

The same gentleman seems to have relied on the article "That no capitation, or direct tax, should be laid, but in proportion to the census," as forming an exception to the powers of Congress; and I presume means to infer, as this bill will not be a capitation tax, that Congress may pass it, under their power "to lay and collect taxes," and the sweeping clause to carry their specific powers into execution. Sir, the Convention never intended that Congress should have or exercise the power to establish banks, or they would have made use of apt words to have vested them with it. Bank, sir, is a technical term, and if they had intended that power they would certainly have used that term. When it was intended to give any power, we find the Convention had no difficulty in expressing it; as, Congress shall have power "to coin money and regulate the value thereof, and of foreign coin"—and here let me remark, is an express power "to coin money," which, if we were left to legal construction, would be an affirmative pregnant that they should not emit bills of credit. But, sir, we need not rely on construction to prove what powers Congress have not, as one of the amendments to the Constitution provides, that "Congress shall have no power that is not expressly given." And to give a power by expression is to use apt words for that purpose; and it of course becomes necessary to the power in Congress to establish a bank, that such a power should be given by such specific terms, as would unequivocally, and without construction, convey the right.

As to the sweeping clause, "to pass all laws necessary to carry into effect the foregoing powers of Congress," the letter of this section confines its operation to the specific powers of Congress, previously enumerated; and can in no sort create constructive powers, or be construed into a creation or extension of power. Sir, if a doubt can remain of its harmless and inoperative nature, I trust it will be removed by a reference to the second volume of the Federalist, page 202. "It is expressly to execute these powers; that the sweeping clause, as it has been affectively called

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'authorizes the National Legislature to pass all necessary and proper laws. If there be anything exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated. The declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless." Here we find one of the framers of this instrument, when defending this article, called the "sweeping clause," from the charge of its being used to extend the powers of Congress, or to embrace other than the specific powers, himself confining it to the express powers, and indeed declaring that it gave no power, was a mere tautology. Yet gentlemen seem to think that it is an important delegation of power, and confidently quote it as such, and indeed if their construction of it were indulged, it would discharge us from every Constitutional obligation, that we, in our discretion, might suppose the public good required, but I trust the good sense and patriotism of this House will never suffer it to substitute discretion for expression, their will for the law.

An honorable member from North Carolina (Mr. ALSTON) has, with some confidence, cited the tenth section of the first article: "No State shall emit bills of credit, or make anything but gold and silver a tender." He urged this denial of the right to the States to emit bills of credit as a perfect prohibition of the States to grant bank charters, and insisted that bank notes were bills of credit. He spoke of this section as a discovery of his own, not noticed by anybody before him as applicable to the case. Sir, the gentleman certainly misapplies the term, "bills of credit" to "bank notes." The term "bills of credit" was surely intended to express and prohibit the emission of paper money, which had been emitted by the States and by Congress, during the war of the Revolution, and had so depreciated as to impress the Convention with the propriety of prohibiting their emission in future. By a recurrence to the proceedings of the old Congress, and the laws of the several States, it will be found that the term "bills of credit" was technically used for paper money; nor can there be less doubt that bank notes have also their technical meaning, as the paper issued by bank directors, and neither of the terms "bills of credit," or "bank notes," could by men of legal intelligence be used for the other. "Bank note," and a "bill of credit" are terms so well known to the law, that in legal parlance neither could be substituted for the other. On a prosecution for counterfeiting either, the other could not, I apprehend, be given in evidence. I must therefore insist that the gentleman's construction of the Constitution is incorrect. But, sir, if it was correct, and the States could not grant bank charters, would it follow that the Government of the United States would possess the right? I presume not, unless that article of the Constitution which declares "that all powers not granted to Congress are reserved to the States or the people," shall be blotted out of the instrument, or totally disregarded. Sir, I hope we have not

already arrived to that lust of power; and I trust the present case, when its expediency comes to be examined, will not seduce any member of this House from his regard to this hallowed instrument.

Sir, the Secretary of the Treasury, (A. Hamilton,) at the time of the passage of the law establishing the United States' Bank, and who may be called the father of it, labored with unceasing assiduity, in every stage of it, to give it a legitimate existence. We see him, sir, insisting on the power to grant this charter, as conferred by the section that authorizes Congress to lay and collect taxes, and by the sweeping clause, "to pass all laws necessary to carry the preceding powers into effect," anything in his opinion, in the "Federalist," before cited, as to the *harmless* quality of the sweeping clause, to the contrary notwithstanding. Sir, we see him driven from these stands by the Attorney General, (Mr. Randolph,) and by the then Secretary of State (Mr. Jefferson,) the last of whom insisted that a proposition in the Convention to authorize Congress to grant corporations, had been rejected; which so thoroughly closed the case that we find Mr. Hamilton, although he questioned the *authenticity* of the document relative to the rejection (by the Convention) of the articles alleged to have been rejected, taking post behind that article of the Constitution, that "Congress shall have power to dispose of, and make all needful rules and regulations, respecting the territory, or other property, belonging to the United States," and insisting that the shares of the stock, contemplated to be subscribed by the United States, would bring the law, granting the charter, within that section which authorized the United States to make all needful rules and regulations respecting the property of the United States. But this would not justify the renewal, as Congress have sold their stock. Thus, sir, we find the advocates of this power in Congress to grant a charter to the Bank of the United States, fixing on a variety of the sections of the Constitution, from whence they infer we have the right; and although by the express letter of an amendment to the Constitution, Congress can exercise no power not expressly or specifically granted, yet these gentlemen insist we have the right, although they cannot agree among themselves on the article by which it is specified, and indeed each is an authority against the other, that the power is not granted at all; and although they all agree on its being Constitutional, they are as much at a loss to fix on the article by which it is made so, as the ladies of Strasburg were to decide on the composition of Sterne's celebrated nose; though they all agreed it was a noble nose.

The gentleman from Maryland says, Congress have, by the law authorizing a branch of this bank to be established at New Orleans, recognised their right to grant a charter; and insists that this ought to be considered as an authority to that purpose. Strange that the gentleman's zeal should so transcend his judgment as to induce him to press so futile an argument. Con-

gress, at the time of passing that law, had a right to make any law necessary for, and beneficial to New Orleans; it was then a territory, and by the positive provisions of the Constitution, Congress have the power to make all "needful rules and regulations respecting their territories or other property;" they have exclusive legislation over it, and may make any law that a State could, as to its government, as well as any law authorized by the Constitution to be passed by Congress.

Sir, by this charter, the directors of this bank were authorized to fix branches in every part of the United States; and when Congress became the purchasers of New Orleans, they considered it a portion of the United States, and of course that the directors of this bank had the right to establish the New Orleans branch bank, and felt no hesitation to declare it by law, as they had a perfect Constitutional right to make all needful laws for their territories; of which the Orleans Territory then was, and yet is one. Yet, sir, this act of good faith in the nation, to this bank, is pressed as an authority to bind this House to consider the constitutionality of this question as settled; but the good sense of this body will secure the United States from the calamity of re-chartering this bank, and committing the best interests of this nation to its foreign and domestic enemies.

Now, sir, having presented this view of the unconstitutionality of this question, I must beg the further indulgence of the House, while I present also my view of its inexpediency.

Sir, this charter is very nearly allied to the funding system; they had a coeval conception, and the same progenitors. They were conceived in sin, and born in iniquity. The funding system was founded in the basest of frauds, to the best of men, the war-worn soldier, whose necessities compelled him to part with his certificates, the price of his blood and toil during an eight years war; and out of which the arch-speculator, availing himself of those necessities had trepanned him at half a crown in the pound. These certificates, sir, were funded to the holders with their interest at par, and with other certificates for supplies for the Army and Navy, which had also depreciated, were funded at par. And although it was ably contended that the certificates granted to the original holders only should be funded at par, and that those held by speculators should be funded at a certain exchange, yet, sir, such was the influence of that well organized band, under the auspices of the then Secretary of the Treasury, that no discrimination could be effected whereby Congress might have been justified in paying the poor soldier for his loss, by being obliged to part with his certificate at less than its nominal value; a loss occasioned by the inability of Congress to pay them at the time agreeably to their contract; a loss, by Congress forcing upon them these certificates, and their total inattention to the payment of them, for many years, and until they were possessed by the hopeful band of speculators who were the active agents of this system. As an evidence of its corruption, the

Continental bills of credit which had been issued from time to time were to be funded at one dollar in the hundred. They, sir, were as a circulating medium in the hands of the people, who, however honestly they might have received them for supplies to the Army and Navy, at the same time, and at the same price that their neighbors furnished them supplies, for which they took their certificates, which this system funded at par for the benefit of speculators, while the holders of the bills of credit were funded at one hundred for one. Could, sir, anything but corruption have prevented the discrimination between the original holders of the certificates and the speculators; or have induced the funding of certificates (for supplies furnished at the same time and the same price) at par, that denied it to those holding the bills of credit?

This banking system was partly made up of these corrupt materials of the funding system, which composed a portion of its stock; was illegitimate in its conception, partial in its establishment, and corrupt in its administration; is a mammoth moneyed aristocracy, violative of the Constitution, of unlawful origin, under the control of foreigners, who have proved their principles, by the selection of its directors, *all* Federalists. This stock was to be subscribed at a *short day* in Philadelphia, convenient only to that neighborhood; it was partial. When, in Maryland, a bank is to be established by law, the proportion of each county is allotted it; books are opened, and the stock subscribed for in each county; and why were not books opened in each State, and their portions of the stock allotted to them as in Maryland? Sir, when we consider that the directors of the mother bank in Philadelphia are elected under the influence of foreign stockholders, to the amount of upwards of seven-tenths of the whole capital, we are not left much to conjecture, why these twenty-five directors are all of a particular political complexion, nor why a list of them, and of the directors of the branches, as required, has not been furnished, as an agent here had it in his power. Sir, I should have been glad of the list, as being pretty well read in the biography of the people of this country, I should have been enabled to have pointed out, I have no doubt, a number of traitors to the Revolution, Burrites, and embargo-breakers; the whole phalanx being at every stage of Republican Administrations of this country, with few exceptions, opposed to every measure of those Administrations. I am a little surprised at their temerity in asking and expecting a renewal of that charter by which directors have used their influence corruptly to control the measures of the Government, and the elections of the patriotic favorites of the people. We have seen a petition, signed by a number of the merchants of Philadelphia, addressed to General WASHINGTON, to ratify Jay's memorable Treaty, a number of whom were known to have been its bitter enemies, and it is a well-known fact, that the reason assigned by them for that act was, that they were induced to subscribe it under the threats of these bank directors, that if



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they did not, they need expect no more accommodation at the bank. We have seen at Baltimore their influence exerted in the memorable election between General Smith and Mr. Winchester, where Edward Johnson, now Mayor of Baltimore, and a bank director of the State of Maryland, and Mr. Matthews, now and often a bank director, were put out, because they had the presumption to think for themselves, and the temerity to vote for General Smith. These gentlemen were of unblemished reputation, and equally entitled to respect with their successors. I have not a single doubt but they did not suit the directors of the mother bank; they had supported a patriotic soldier of the Revolution, a sin of too deep a dye to be forgiven by this Britannic chosen band, who have lately put the seal to their principles in the election of Evan Jones, now president of the branch bank at New Orleans, who succeeds a gentleman of republican principles. This Mr. Jones is said to be a refugee from the United States at the commencement of the American Revolution, and a British officer, during that period, who has been lately more than suspected to be one of Burr's chosen band. If at a time when the directors are soliciting the renewal of their charter, they can thus outrage every principle for which our patriots bled, and prefer the patricide to the patriot, at a time when the eye of the nation was fixed upon them—what, I ask, after a twenty years' renewal of charter, may they not be expected to do, or how, in the case of a war with Great Britain, might they not be expected to act? How would a patriot of America be expected to act in supplying funds to our enemies to prosecute a war against this country? It would certainly be a treasonable adhering to our enemies, giving them aid and comfort. But, sir, we are told this is a harmless institution, all important to the fiscal concerns of the United States; influenced by no motives but the common good. Strange, indeed, would it be, to ascribe to the stockholders of seven-tenths of the capital of this bank, (reported by the Secretary of the Treasury to be foreigners,) and known to be Englishmen, a disposition friendly to this country. Sir, here is a strong foreign influence on the moneyed concerns of this country. Money has been correctly called the sinews of war; and are we to suppose that Britons are not as much attached to their country as Americans are to theirs, or that the strength and influence of this institution will not be put in full operation against us when it has been committed to the care, and put under the direction of men known to be in hostility to the best interests of this country?

Gentlemen on the other side, however, insist that there is no *improper* influence to be apprehended, and deny it to be a party question, although it is well known to have originated in party, under the auspices of the great Federal leader, Alexander Hamilton; although it has been conducted by directors of the mother bank, exclusively Federalists; and although every Federalist in this House is now its advocate, it is said to be harmless. I think, sir, the placing in

the hands of twenty-five directors, elected by stockholders seven-tenths foreigners, to have the direction of twenty millions of dollars, when money is admitted to be the sinews of war, particularly when we consider their political complexion, and retrace their political conduct, cannot be safe to our republican institutions, on the score of its moneyed influence. But when we consider the patronage of these directors, who, by the charter, have a right to establish as many branches in the United States as they please, say one to each State, with the appointment of thirteen directors, a president, and seven officers to each branch, with as great accommodations as directors, and salaries to their officers averaging a thousand dollars a year each, making upwards of one hundred and seventy thousand dollars to their officers, and more to their directors—sir, this is a patronage greater than is possessed by the President of the United States. And will any gentleman who regards the solid interest of this country be disposed to give this aristocracy, organized as it is, and composed of such materials, the key of this Treasury with its privileges? I had always supposed that the Treasury of this country ought to be in the hands of Representatives of the American people; they are said to hold the purse-strings of the nation's treasure, and not that body who now directs this bank. Have they not denounced the Administration and every measure of the Government, and supported its most inveterate enemies? But suppose them to have been correct in all their measures, ought the nation's Representatives to give to foreigners, knowing them to be such, the immense advantages flowing from the renewal of this charter, or to one set of her citizens this benefit, which they have enjoyed for twenty years, in exclusion of her other citizens, who, to say no more, are equally entitled to the favors of Government?

If, sir, we have the power and feel it necessary to the fiscal concerns of the nation to have a National Bank, the eight million two hundred thousand dollars held by foreigners in its funds ought to be withdrawn, and that share of stock distributed among the States, having an eye to stock already held by citizens; so that the proportion of each State, agreeably to the relative census of the States, might be apportioned and subscribed, whereby the establishment might be purged of its foreign influence. But, it is said, these foreigners will send their gold to England. Can any man of sound judgment suppose they would transfer their capital to England and take four per cent. in England, and that in paper, when they can loan their money in this country, at six per cent. and get the interest in specie?

Sir, there can be no possibility of their exporting their stock in specie very speedily, when you take a view of the late report of the Treasury; they will not have specie to meet the specie engagements of the bank. Sir, this institution was established by the Secretary of the Treasury, without a bonus or any solid advantage to the United States. He well knowing what had been the engagements of the stockholders of the Bank of

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England, at its establishment, and frequent extensions in its accommodations to the British Government; and that the derangement in its fiscal concerns had forced these extensions on that Government. He also well knew that when the two insurance fire companies, "The London" and the "Royal Fire Insurance Company," were established with a capital of four hundred and fifty thousand pounds sterling each, they gave as a bonus to the British Government one hundred and fifty thousand pounds each, and yet this experience was not turned to the benefit of the United States; but this charter was granted without any benefit but to speculators, who were holders of the funded debt, which was made a part of the stock of this bank. Sir, in the provisions of the law for the establishment of this bank, whose capital was to have been ten millions of dollars, the stockholders were so favored, as to be permitted to go on as soon as four hundred thousand dollars were paid in, (one-twenty-fifth part of the capital,) and thus on that small sum they proceeded to business and received an interest on fifteen millions of dollars; and so much in conclave are its concerns, and so much under the control of men of a particular political complexion, all the directors of the mother bank at all times have been Federal or worse, many of them Tories or monarchists; so that, as to its secrets, it might be compared to the inquisition, and being under such control I have ever doubted the statement of its funds. Sir, the humiliation of having such an assemblage of characters selected by foreigners to select directors for the branches in each State has ever been truly grating to the honest feelings of Republicans, and violative of the rights of the States, to whom an independent Republican Government has been guaranteed.

Sir, there can be no necessity for this bank. The State banks are abundantly sufficient to supply every requisition, if the United States deposits are made in them. This goes all lengths to defeat the arguments of gentlemen, predicated on the principle of necessity, as vesting this power in Congress. There are banks in Baltimore alone with a nominal capital of eight millions two hundred and eighty thousand dollars, four millions nine hundred thousand dollars of which is paid in; and if a nominal capital of the United States' Bank of ten millions of dollars, with four hundred thousand dollars only paid in, could begin and progress in business, is it possible to doubt that the banks of Baltimore, with four millions nine hundred thousand dollars paid in, already in operation, could not go on, with the deposits of the United States, and extend their business, so as to give every necessary accommodation to individuals and the public? Can there be any magic in the United States' Bank? Or can any honest American feel a predilection to its foreign stockholders, or to their hopeful selection of directors? I trust not. Therefore, there can be no cause of alarm; no danger to the fiscal concerns of the nation. But, sir, many of the States have banks, and will no doubt conduct them as

honestly and impartially as the United States' Bank has been conducted, and under the direction of men the United States may as safely trust, and on whom the public may as confidently rely for accommodation; unless, peradventure, some gentlemen might repose more confidence in foreigners, than in their own citizens; but I hope and trust there are none such within this sanctuary of the liberties of the nation. We have been told by a gentleman from New York, (Mr. Fisk,) that agriculture, commerce, and manufactures, will receive a vital stab by suffering the charter of this bank to expire. This is a groundless phantom, produced by the feverish fancy of this gentleman laboring under the bank mania; but, sir, if agriculture, commerce, and manufactures, were to feel it, in the extent suggested by the gentleman, I trust those classes of our fellow-citizens would bear it with fortitude, when they reflected that it could not be renewed but by a violation of the Constitution of the United States—a violation of the rights of the States, to whom is guaranteed an independent Republican form of Government, and perhaps a violation of our independence, for which the best blood of our heroes was shed on the altar of liberty. This charter is a cancer on the body politic, which I hope we shall suffer the hand of time to eviscerate and eradicate, and no longer suffer any foreign agency in the regulation of the internal affairs of this country; and that we shall preserve our fiscal concerns from the influence of those whose interest it is to destroy them. But we are told, by the same gentleman, that the Secretary of the Treasury, whom he calls the Chancellor of the Exchequer, has reported this bank as necessary to the fiscal concerns of this country; and I suppose, by giving the Secretary of the Treasury the title of Chancellor of the Exchequer, he wished to impress this House with the powers of that officer in England, to give an imposing influence to the Secretary here: and while he advocates the interest of these foreign stockholders, he so far forgets himself as to introduce into our Government a Chancellor of the Exchequer; but I hope we shall exercise our own judgment, and be satisfied with our own Government, organized as it is, disregarding the principles of foreign Governments, and the interest of foreign stockholders. Sir, we are told by the same gentleman that Congress sold to foreigners two hundred thousand dollars of the stock in this bank but a few years ago; and, therefore, we ought to renew the charter. Sir, the purchasers knew the tenure by which this charter was held, and the precise moment of its death; they bought it as it was, a perishable article, and the selling of the stock by the United States ought to have been considered as the tocsin of its dissolution, at the time appointed for it. The claim to renew the charter on that ground, is as ridiculous as for a man who has bought a horse, on his death to demand another. We are told of the vast inconvenience our merchants will experience by not having an universally circulating medium; how, say they, can money be paid by a Bostonian

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at New Orleans? Sir, money is not paid in large commercial transactions, and, if it were, would it not be an easy matter, if a merchant has Boston bank notes, to get the specie for them, and send that to New Orleans? How, I ask, would he do if he wanted the money at the Havana, or any foreign port? And why cannot he do the same at New Orleans? Sir, this is the common lot of merchants? But, sir, if the gentleman has Boston United States' branch bank notes, could he get gold for them at the New Orleans branch bank? No, sir, and a gentleman who had five hundred pounds of the United States' mother and branch bank notes, might have to travel to every State having a bank, to get the specie, as neither will give specie for the paper of the other, and are to that purpose foreign to each other. Indeed, it has been suggested, as a practice, to secure the bank from a pressure for specie, to circulate the Eastern notes to the West, and so, *vice versa*, whereby the holders, on the fourth of March, will be put to great inconvenience in procuring specie for them. Sir, the people of England had no national bank till the year sixteen hundred and ninety seven, less than a century before the establishment of this bank, and they were enabled to conduct their great commercial concerns, to great advantage; and as the United States had an extended commerce before the establishment of this bank, I trust her merchants will be able still to conduct advantageously their commercial concerns, without our sacrificing the Constitution we are sworn to support, or being tributary to foreigners, whose interests I never can respect, when in collision with that of the American people.

Mr. Boyd said he was unwilling to give his vote on the question of indefinite postponement, without offering to the House, and those that he in part represented, his sentiments. I shall vote, said he, for the postponement; and, should that vote not prevail, then against the bill in its present form, and every other in which it may be presented to me for a renewal of the charter of the Bank of the United States, predicated on the original grant; because to my mind it is unconstitutional. And here, Mr. Speaker, you must allow me to go back and take a look at the time and manner of its creation, and how it originated. To my mind it was created in aid of the funding system—and what was that debt so created, not contracted? Was it for the redemption of the bills of credit called Congress money, that paid your Army in the field; fed and clothed them for years? No. Was it to redeem said bills that were paid to the farmer for his flour, beef, teams, hay, and supplies to the Army? No, no, sir. How then? Why, after those bills had so far depreciated that the farmers were unwilling to receive them, then certificates were given at the comparative price of those depreciated bills. Then, again, it became necessary to liquidate those certificates down to specie value. Were they called in then? No, no, sir; no redemption yet—and let me tell you, sir, it was that paper and credit that placed you in that chair, and me

on this floor. Well, next the Constitution is formed, and Congress set themselves about paying the debts of the United States, and some part of the several States' debt. Mr. Speaker, how was it done? Runners go out in every direction, to purchase those liquidated certificates, and they succeed, at 2s. 6d. in the pound value up to 8s. All the certificates funded did not on an average cost the purchaser more than five shillings in the pound. Now, sir, the bills called Congress money, are all, or next to all, sunk in the hands of the holders, and fifteen shillings in the pound of the residue. Now, sir, an act of general justice takes place! The said certificates are funded at 20s., or their nominal value to the speculator; and an interest of six per cent. per annum given to him; to pay which, duties are laid, and money borrowed to pay the interest in advance of the revenue. A charter is now granted for a bank of ten millions of dollars, seven and a half millions of which was to be this aforesaid State paper, and two millions five hundred thousand in specie; and when a small part of that was paid in, they were allowed to begin their discounts and issue their paper to double the amount of the whole capital! viz: twenty millions; these certificates drawing six per cent., making seven millions five hundred thousand of the stock. Now, this part must, according to this statement, give to the stockholders eighteen per cent. for the deposit of this State paper, and twelve for the residue. Now, Mr. Speaker, I will ask where was the redemption for these bank notes so issued? Surely not in the bank, for that was seven and a half millions State paper as above, drawing six per cent. Not in cash, for that was not supposed to be there. Therefore, to my mind, this was a great deception; swindling I will call it. Ah! but, say some, by this means you were furnished with a capital and enabled to carry on commerce to a great extent. I deny the fact; our capital was the produce of our soil and industry. Banks, at best, are no more than a convenience to merchants; and I respect honest merchants; they are useful and necessary, but I do not include bank stock jobbers, or men calling themselves merchants without a capital, mere drones in the hive. No, sir, the latter is a moth to the Commonwealth.

It appears to me, that this scheme of banking is an evil in its operation something like the faro table, always in its operations, at each round, depositing six per cent. to the stockholders—for what? The exchange of a note discounted, and the note so lodged the best of the two! Ah, and is this indeed the capital of our country? Sir, I am lost in the chicanery. The banks enable us to overtrade on a false capital; depreciate our property; demoralize our citizens, and take or send the gold and silver out of the country. Let me state this a little further. I will suppose a line drawn at a distance from the sea of fifty miles, the whole length of the continent. I would ask, if the cultivation of that tract of country would be equal to the maintenance of themselves and those collected in the cities? I

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believe not. Then, again, let me suppose that, on an average, the whole length of our country be cultivated to the distance of two hundred miles from the seaboard. Then, it appears, that the average distance that we have to take all our transportable produce is one hundred and twenty-five miles. It is believed that the cultivated distance is, on an average, nearly four hundred miles, which will enhance the price of transportation mostly by land to the cities. Now, sir, at the general price, one-third, and, in some cases, one-half, is expended in getting the produce there. But this is kept out of sight, and much said about high and great prices obtained by the farmer. It is nominal, not real. It is paid them in depreciated bank paper. Sir, I do contend that not only the bank paper is depreciated, but that, by the means of its abundance, the gold and silver is depreciated. One dollar, eight years since, was worth more than one dollar and fifty cents is at this day. Besides all this, I ask, is there cash in their vaults to redeem their bills? No, no, sir, not for one-half. Thus, sir, are the people swindled out of their property to support gambling and chicane. Is this what enhances property and gives a capital to carry on commerce? No, for myself, I think not. It is the product of our soil and our industry that is the capital, and on that we do and ought to trade; and that trade ought to be internal, turned to our own manufactories in a great part. I do not say that banks are not convenient and useful to a certain degree; but I do not think that the advantage is equal to the disadvantage. I am well aware that such sentiments will be treated with ridicule; but, sir, that does not intimidate me; they are my sentiments, and as such I give them, without the least fear of intimidation, having in view the happiness of my country; and I will venture to say, that the day is not far distant, if we progress as we have done with banks, that the country will experience an universal shock from this false capital. Before you, sir, are propositions for charters of incorporation within this District for banks to the amount of four millions. Can there be a want of capital? If there is, how is this stock to be furnished?

Mr. Speaker, we hear from Richmond, Baltimore, and Philadelphia, much said against the renewal of the United States' Bank charter, and I agree with them; but, I believe, from very different principles. The profits of this bank have been, from its issues and the deposits of the revenue and private individuals, immense, and they want the cards in their own hands to play the same game. I think they are not entitled to much credit. The odds consists in this: the one is against the Constitution, the other not; the principle is the same in both.

Mr. Speaker, if we must have a National Bank, let it be so in reality. I shall not attempt to go into the detail of such an institution. It is not my purpose; but I think that it might easily be done by making a portion of our public lands the foundation of such part as the United States should choose to subscribe or hold; the bank to

be created in the District of Columbia, and to extend branches into such States as, by law, would choose to accept them. Sir, I had much more to say on this subject, but I perceive that the House is impatient, and I do not wish to detain it, and shall add no more.

Mr. McKEE.—Residing as I do in a part of this country, remote from the scene of bank operations, I had determined to say nothing on the subject, contenting myself by giving a vote, flowing from the honest convictions of my heart; but the extraordinary manner in which this discussion has been managed on the part of the opposers of the bill, by attempting to make it a party question, has compelled me to commence my defence of the vote I expect to give on this motion. So far as I know, or believe, my suffrage in favor of a renewal of the charter of the United States' Bank is in conformity with the views and wishes of the people whom I have the honor to represent; and any change in their sentiments which might be effected by the frequent appeals to their passions and prejudices, made in the form of argument, it becomes my duty to correct.

We are arrested in the threshold of this discussion by a Constitutional objection, by which it is alleged that Congress do not possess the power of renewing this charter. I had thought this question long since settled, not alone by those who originally granted the charter, but confirmed by Mr. Jefferson and the votes of a Republican Congress. I have been led to this opinion by a recurrence to the act of Congress of the 23d of March, 1804, by which the President and Directors of the Bank of the United States are authorized to establish offices of discount and deposit in any of the Territories or dependencies of the United States. A gentleman has said, this was a power possessed originally by the bank. If so, for what end was this law enacted? It must either have been enacted from an opinion that the charter could not, without this aid, be extended to New Orleans, or that it was proper and necessary, in order to the well management of the fiscal concerns of the country, that this institution should be extended to New Orleans. Either case answers my purpose; for, if the bank could not, without this act of Congress, establish an office of discount and deposit at New Orleans, (which seems to be the better opinion,) then the passage of a law extending the influence, the power, and the profit of the bank, cannot be considered in any other light than a tacit and full acknowledgment, on the part of Mr. Jefferson and the Republican Congress, that the charter was within the pale of the Constitution. For, sir, can it be supposed, that Mr. Jefferson, and Congress, who were more republican in 1804 than at any other period, would have extended, bolstered up, supported, and cherished an institution, originally obtained by a violation of the sacred charter of our political rights? No. Surely it is impossible. And if, sir, this office of discount and deposit was induced to go to New Orleans, because it was necessary and proper to be sent thither for the better management of the collec-

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tion of taxes at that port, this circumstance admits the only fact necessary to be in proof to establish the power of Congress to pass the law.

If, sir, any additional proof could be wanting to show that the power of Congress, under the Constitution, has been considered sufficient by this Administration, to authorize them to grant the charter in question, it is abundantly furnished by the act of Congress of the 24th of February, 1807, for the punishment of frauds committed on the Bank of the United States. By this law Congress have subjected the citizens of the United States to capital punishment, for counterfeiting the notes of the United States' Bank. Now, if Congress, by the Constitution, have not the power originally to grant this charter, the notes of the bank were certainly issued in violation of the supreme law of the land, and Congress had no power whatsoever to pass a law making that criminal which was in itself no crime, and could not, by any conception whatever, be considered as a violation of any law of the United States. It seems to me to be perfectly paradoxical and absurd to say that any institution, having no legitimate right to issue paper, nevertheless has a right to the interposition of Congress in their behalf, making it a crime against the United States to counterfeit this paper, which was issued in violation of the supreme law of the land. Under this act of Congress the citizens of the United States have been deprived of their liberty as well as subjected to heavy fines, by the decisions of your courts. A citizen of Kentucky has been doomed to confinement in the jail and penitentiary house for a violation of this act of Congress, and he was not relieved from the fangs of the law by the President, (Mr. Jefferson.) How are these things to be reconciled on any other ground than by admitting the Constitutional validity of the original act granting the charter?

But it has been stated that this charter, when originally granted, operated in the nature of a contract, and that Congress could not repeal the act of a former Congress granting a charter, and hence the power to make, and propriety of passing, the act in question. This idea is altogether fallacious, because it is an indispensable requisite to all contracts that the parties thereto shall be able to contract. If the Constitution vested no power in Congress to make the contract, it was absolutely void; and if the Congress of 1807 were thus impressed, they could not and would not have passed the law in question, and therefore I infer that they considered that the Constitution had vested Congress with the power to grant the charter.

In addition to this, we find that the present Secretary of the Treasury, under the auspices of Mr. Jefferson, made a report in favor of the renewal of the charter of the United States' Bank, in pursuance of a resolution of the Senate passed on the subject. This report called forth no animadversions from any section of the country; and I have ever understood that, if this question had then been brought forward, it would have passed by a large majority of Congress. These

circumstances have led me to suppose this question had received the ratification of every party and of every Administration, and, what is still of more importance and higher authority, the sanction and confirmation of the sovereign people, and therefore considered as an adjudged case, tested by experience.

I shall not consume the time of the House by any enumeration of the powers of Congress, arising from the Constitution itself, with a view to prove that Congress originally had the power to pass the law granting this charter, and still possess it, because this ground has already been occupied with great ability, and the power of Congress to pass the bill clearly shown, and, any remarks which I might make, would only be a repetition of the arguments of others. I shall, therefore, content myself by answering some objections made to the bill.

It is said the bank will be a thorn and a viper in the bosom of the United States, which will ere long, sting the political liberty of this country to death. This is a strong charge, and, if it be found true, it must be conclusive against the bill. But, let us examine this bold assertion by the test of reason and experience; this charter was given by Congress twenty years ago; since that time the Constitution and the political liberties of this country have been in the hands of our political opponents, and are now in our hands *unimpaired*. The country has, in the latter period, been prosperous beyond example; agriculture has prospered, commerce has flourished, internal improvements have increased, the people have enjoyed peace and prosperity, security and happiness, in a degree infinitely superior to that of any other nation on earth. No deleterious consequences have grown out of this institution, affecting the security or liberty of the citizen or the country. It is said, and truly, too, that ours is a Government of experiment, none similar to it ever having existed before. Here, then, is the test of experience in favor of this institution, and why discontinue it to try some devious and unknown track?

But, sir, suppose there is something of truth in this statement: I ask if State banks are not equally as dangerous to the political liberties of the States, as this bank can be to the United States? And if the political liberties of the States are stung to death, I ask where will you find the liberties of the United States? I believe they will sink with the liberties of the States. But, if gentlemen are really serious on this subject; if they believe that banking is fraught with thorns and not with roses, and wish to return to the state of native simplicity which existed in the pure ages of ancient Greece and Rome, I will unite with them as far as we have power, in plucking up by the roots this monster, and make a common bonfire of the charters of every bank in the nation. To do less would not cure the evil, if any exists.

But it is said that this institution will destroy Republican principles and Federalize the country. This bank, as I have already stated, was in operation in Federal times, and, notwithstanding its

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influence, those times have changed. Experience, the best possible test of human affairs, does not bear gentlemen out in this assertion. On examination we find, that the States of Rhode Island, Connecticut, and Delaware are the only States in the Union who are represented in the Senate and in this House exclusively by Federalists—yet there is not now and never was a branch of this bank in either of those States. But there is a branch bank in Georgia, South Carolina, Virginia, Maryland, New York, and Massachusetts, and the mother Bank in Pennsylvania. The two first are exclusively Republican States, and those parts of all the others (except Massachusetts) where those banks are seated, are represented on this floor by Republicans; whence then are found the facts to prove this assertion—or do gentlemen pursue a recent example, set by a certain great man, of giving opinions, when, with the same breath, it is acknowledged there exist no facts on which they are founded.

The foreign capital employed in this bank is a ground of great alarm to some gentlemen. In answer to this objection, I would ask, if it ever has been, or if it is now the interest or the policy of the States or the United States to exclude foreign capital from being received and employed in your country? Do you find any provision in the charters of the State banks, prohibiting foreigners from becoming stockholders? Is there any provision in those bills from the Senate, establishing half a dozen banks in the District of Columbia, prohibiting foreigners from becoming stockholders? To all these questions you are compelled to answer in the negative. So long as the profits of agricultural pursuits or commercial enterprise furnish the adventurer with a good profit over and above the price he has to pay for the use of the capital employed, just that long will he continue to employ it; and, if the capital is not to be found at home, application will be made for it abroad; and whenever capital becomes redundant at home, you will then exclude foreign capital. Before that time the attempt would be unavailing; for capital, like air or water, will seek its level. I have thought that foreign capital in this country would have had rather a salutary tendency, inasmuch as it would interest men of influence in the preservation of the peace and perpetuity of the Government. Mr. Jefferson must have been thus impressed; or how could he have permitted a sale of the bank stock of the United States directly to Englishmen—and he was certainly not chargeable with a predilection in favor of British influence. There is in England a class of men favorable to the prosperity of this country; and I have always understood that it is these alone who have interest in our funds. Besides, if this foreign capital is fraught with all those evils which gentlemen picture to themselves, the argument holds good against State banks, and goes to prove the necessity of their destruction also.

The gentleman from Maryland (Mr. WRIGHT) has made some heavy charges against the directors of the United States' Bank and their man-

agement. I had thought it universally understood and admitted, that the management of this great moneyed institution had been exemplarily correct, and I have not before heard anything of the kind laid to their charge. But, even admitting the charge to be true, it only proves, what may I believe be alleged and proved against every human institution administered by man, viz: that the institution, as well as the administration thereof, is imperfect. But I ask if the directors of three-fourths of the State banks in the United States are not Federalists; and therefore why not put them down in mass?

I beg leave to notice an argument which has been resorted to by all the opposers of the bill, when they have been told that the bank was both necessary and proper to the convenient and advantageous management of the public revenues. The answer has uniformly been, that this difficulty could easily be obviated by the agency of State banks. This, sir, is certainly begging the question; because an admission that bank agency is necessary to the collection of your revenue, and proper to be used in the management of the moneyed concerns of the Government, is an admission of the only fact necessary to be in proof to show conclusively the power of Congress to pass the bill in question. Besides, do not all the unhappy consequences, which, it is said, await this bank, attend the depositing your money in State banks? Will you not thereby give a circulation to the paper of the bank where you make your deposits greater than heretofore? and, by increasing the circulation of their paper as well as by aiding them with your money to make more extensive discounts, you increase the profit and value of the stock. This circumstance will create an anxiety with all the State banks to obtain your deposits, and hence the United States, if they are so disposed, can operate through those favorite banks as effectually on the people of the States as they could by the United States' Bank. You have all the evils of the United States' Bank without any of the advantages; you also throw into circulation a heterogeneous mass of paper, that nobody knows anything about, issued by establishments of whose solvency you know nothing. Will the gentleman from North Carolina or the member from Massachusetts willingly receive their per diem in their own State paper? I believe they would not—yet the effect of using State banks for revenue purposes will be to impose this paper on the people of the United States.

It is a rule, sir, which I have prescribed to myself, in the management of the concerns of others which may be committed to my care, in any character, to conduct them in such a manner as to produce no individual distress or loss, which may not be fully compensated by an equivalent certain public good; and I shall not relinquish the observance of this rule on this occasion. We are informed by various gentlemen, who are charged with the representation of the more commercial States, that great individual distress will be the certain consequence of a refusal to renew the charter of the United States' Bank; and that the

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distress will fall with accumulated weight on those who have poverty and the frowns of fortune to struggle with, is evident; and when I commiserate the woes felt by the citizens of every part of our country, my attention, as it ought, is particularly drawn to the losses and distress which will be felt by my immediate constituents.

If this charter is not renewed, it is my deliberate opinion that the farmers of Kentucky will sustain a loss thereby to the amount of near \$200,000; and I will now attempt to show that this opinion is not altogether chimerical. I am unable to state with any great certainty what is the amount of circulating medium of the United States; nor indeed is it necessary for me to state with great accuracy the precise amount. I suppose the whole circulating medium of the United States to be upwards of \$50,000,000, and that of this sum the Bank of the United States circulates one-third. It is a fact frequently stated in this House, and which stands undenied, that money or circulating medium is scarcer in the United States at this time than it has been for several years past, owing perhaps to the unproductiveness of commercial enterprise, or, if you please, to the natural increase of population, and the proportionate increase of demand for money. By refusing to renew the charter you throw out of circulation one-third of the money of the country. The necessary and inevitable consequences of this act of the Government will be to diminish commercial enterprise in the same proportion, and consequently ship-building and ship-repairing will be diminished in a like proportion, and the materials for this service will not be wanting. By letters recently received from very intelligent merchants of Lexington, Kentucky, I am informed that 6,000 tons of hemp will have been raised in that State in the present year. The ship-owners are the consumers of this article, for not a pound of it goes abroad, and from six to nine thousand tons of hemp is the quantity consumed in prosperous times in the United States. These 6,000 tons of hemp, together with what will be brought to the market from other States, will furnish an abundant supply for the present year, even admitting it to be a prosperous year. By the refusal to renew the charter you lessen the demand one-third at least, and consequently you diminish the price of the article in the same proportion. But, sir, this is viewing the consequences arising out of the rejection of this act in the most favorable light. If the refusal to renew this charter should, as some gentlemen apprehend it will, bankrupt not only many individuals, but also some of the State banks, a general alarm may take place, which would for a time put an end to all credit and to all business. The consequences of such a state of things are much to be feared and much to be dreaded by every portion of the community.

It has been stated that the United States' Bank can be dispensed with in the collection of your revenue, and in the management of your moneyed concerns. I wish to know how gentlemen can make this statement. I perceive that General Hamilton, the first Secretary of the Treas-

ury, appointed since the adoption of the Constitution, in his argument on the subject, decidedly declares that the bank is necessary for the collection of the taxes and management of the fiscal concerns of the United States; and Mr. Gallatin, the present Secretary of the Treasury, makes substantially the same declaration to you in his report on this subject.

[Mr. WRIGHT observed, that Mr. Gallatin had, in conversation, said that the moneyed concerns of the Government could be well managed without this bank.]

If Mr. Gallatin has so said, he then says one thing, and reports a different thing, and is therefore inconsistent. But I take his official report as the best evidence of his opinion; and these men having been charged with the management of the revenue for many years, and having the knowledge acquired by experience, certainly should know what is necessary and proper for the convenient and well management of the affairs of their department; and are therefore better authorities on the subject than any member of this House.

As to the remark made by some gentlemen, that this is a party question, I have only to observe that, if Federalists do right, that can be no sufficient reason for me to do wrong, merely to oppose them; and if the suggestion that this is a party question is to prevail against reason and common sense, and parties are thereby to be marshalled against each other under the banners of some leader, then, indeed, anything that can say ay, or no, is perfectly qualified to be a member of this House, and intelligence is laid aside as useless and unnecessary. Against doctrine of this sort I protest. And perceiving, as I think I do, great political as well as individual inconvenience and distress awaiting a refusal to renew this charter, which is not compensated by any correspondent public good; and perceiving, also, in the destruction of this institution, a want of stability in your institutions which is a partial verification of the predictions of the enemies of republican government, which we ought to refute by our acts—I shall, therefore, vote against the indefinite postponement of this bill, reserving, however, to myself the right of subsequently examining the details thereof.

MR. BARRY.—Mr. Speaker: The measure now under consideration is certainly important. It involves principles interesting both as they relate to the General and State Governments. The solicitude manifested for the renewal of the charter; the deep concern that is felt in some of the States; the serious and solemn manner in which this subject has been considered and acted upon by their legislative councils; the general agitation it has occasioned in the public mind, has not failed to command my most serious attention. I should, nevertheless, have been content to have left it to the discussion of others abler and more experienced than myself, satisfied with giving such a vote as would comport with the honest conviction of my understanding. But the debate has taken an unexpected course to day. The re-

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marks of my colleague (Mr. McKee) will not permit me longer to remain silent. As it is my lot to differ with him on this great question, I must claim the indulgence of the House for a few moments, while I endeavor, in as concise a manner as possible, to state some of the reasons by which I am actuated.

The baneful effects to result from the dissolution of the bank, the ruin that is to follow in its train, have been portrayed in the most glowing colors, in a manner calculated, as it was no doubt designed, to awaken and alarm our fears. I shall not now enter upon this branch of the subject.

If, as I am most seriously impressed, the Constitution does not authorize us to pass the bill, there is at once an end of the question. It is, Mr. Speaker, immaterial what consequences may result. No pressure of calamity, however great, can warrant a departure from, or violation of, that sacred instrument.

It has been said that this is a party question. The remark is just, so far as the principles which separate and distinguish the two great political parties in the United States shall be made to bear upon it; not that the declaration of any man can make it so. It is measures, not men, that should govern.

It will be recollected that early in the history of our Government the country was divided into two great political parties, the one endeavoring to extend and increase the powers of the General Government, the other attached to the State authorities, and exceedingly jealous of their rights. Under this state of things the Constitution of the United States was framed. Soon after the Government went into operation under it, these parties again displayed themselves in the rules they adopted for expounding the Constitution, the one contending for that kind of interpretation which would possess Congress with the most ample powers, sufficient to do whatever political expedience might dictate in providing for the common defence and general welfare.

This latitude of construction was considered by the other party as dangerous; that it would tend to consolidation; that in this way State rights would be encroached upon and their sovereignty impaired. They contended that the power of Congress was limited; that it must be confined to those powers expressly delegated, and to such as were necessary and proper to carry them into execution. That this mode of construction resulted necessarily from the nature of the General Government, but was settled beyond all doubt by that clause in the Constitution which provides, "that all powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people;" that to step beyond the boundaries thus fixed, would be to enter upon a field of power no longer capable of being defined. Such has been my understanding of the views of the two parties; the one called Federal, the other Republican, or Democratic if you please. I speak of parties as they were at the period I allude to.

It is remarkable, that, upon this very subject,

in the year 1791, when the bank charter was granted, we find the most distinguished politicians of that day, who were on the Republican side, opposing it; and they did it under the guidance of those sentiments that had originally given rise and character to the party. For although they did not admit the utility of the banking system, yet the great ground of opposition—the strength of their argument—was directed against the power of Congress to pass such a law. It was, sir, upon that occasion that Mr. Madison, then a member of Congress, made that perspicuous and luminous argument that has been so justly celebrated as defining and marking out the proper limits of power assigned to the General Government. I have thought proper to make these preliminary remarks to show what was the understanding of this measure at the time of its adoption. That it was then protested against as unconstitutional. Two articles of the Constitution seem to be mostly relied upon by those who are in favor of the renewal: That which gives to Congress the power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; or, in other words, the power by which Congress is to regulate the financial concerns of the nation, and that which gives the power to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States.

It has already been shown by gentlemen who have preceded me, by a course of reasoning to my mind unanswerable, that the clause which enables Congress to pass all laws necessary and proper to execute the specified powers, must, according to the natural force of the terms and context, be limited to the means necessary to the end, or incident to the nature of the specified powers; that this clause was in fact merely declaratory of what would have resulted by unavoidable implication as the appropriate and as it were technical means of executing these powers. It was further contended, that the true exposition of a necessary mean was, that mean without which the end could not be produced. If this doctrine is correct, it puts the question at rest—as it has been most clearly shown that a bank is not a necessary mean according to this exposition. I shall not dwell longer on this head, considering it as already exhausted by argument. The word "proper" is, in my mind, an important and operative word in this clause of the Constitution. The incidental power to be exercised must not only be necessary, but proper; that is, it must be appropriate, and confined to the end in view. If it goes beyond it; if it involves the exercise of a power that tends to create a distinct and substantive thing, which, in its important operations, is entirely distinct from, and independent of the power to the execution of which it was designed as a mean, it would most certainly be improper. Such an exercise of power would, in truth, be usurpation, and the end proposed becomes a mere pretence for the unwarrantable assumption of power.



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To enable Congress to collect taxes, offices of deposit merely would be sufficient. But instead of confining the incidental power to be employed to the object it is designed to accomplish, you introduce a new system of policy, that has no more connexion with the management of the revenue than it has with the power to borrow money on the credit of the United States, with the power to regulate commerce with foreign nations among the States, and with the Indian tribes, or than it has with the power to raise and support armies, or provide and maintain a navy. The power to establish a bank applies equally as an incident to all the above-named powers, and is not strictly appropriate to either, nor is it confined to all of them collectively. If, under such pretence, you can erect corporations, your power in this respect is unbounded.

By this act you form a society of individuals, invest them with extensive and exclusive privileges, who, instead of being employed as auxiliaries in the fiscal arrangements of the Government, set up for themselves and go on upon a system of money making. They issue notes that become a circulating medium and forms a new species of capital. The institution carries with it a train of officers, influence, and patronage. It gives rise to an act of sovereign power, that no Government should ever be permitted or can derive by just implication—that of punishing those who may counterfeit the notes of this bank. Thus introducing into our code of laws a system of criminal jurisprudence never contemplated by the Constitution.

It will be seen, as we progress in this inquiry, how this measure is calculated to affect the State rights and to infringe upon their sovereignty.

If it is good policy to establish banks, and I am inclined to think it tends, when properly regulated, to promote the interest of society, the States will surely have a right to claim the benefits that may result from it—because this right they never have parted from. The profits arising from discounts, the advantage to accrue from public and private deposits, and the many facilities this kind of institution affords to society, belong to the States, and ought to be exclusively under their control. The objects of State policy are infinitely more numerous than those of the General Government, and deserve equally to be promoted.

It is said that the States are at liberty, if they choose, to establish banks; this does not remove the objection; if the right is impaired, it is the same in principle as if it were denied. A branch bank of the United States will always have a predominant influence. They will have the benefit of a large capital; but the great source of influence results from its connexions with the mother bank, and a confederacy of branches co-extensive with the United States. They all move in concert; and, by combining their influence, would at any time be enabled to overwhelm and destroy the small State establishments. There can be no stronger evidence of the weakness and the dependence of the State banks upon that of the United States, than the alarm that some of

them now feel at its expected dissolution. It is said that no danger of this sort is to be apprehended; that those who have had the direction of the United States' Bank, have conducted it properly, and with liberality. This affords no guarantee that they will continue to do so. Bank directors have the same passions and prejudices that other men have; the same feelings of jealousy and rivalry exist in corporate bodies as with individuals; the same struggle for power and disposition to oppress. State rights require the guardianship of the Constitution; they are not, I trust, to be left to the mercy of a bank directory.

It would, sir, be less objectionable, if the Bank of the United States diffused its benefits equally throughout the different States. But instead of this equal and just distribution, it will be found to be confined and partial in its operations; its benefits will be principally confined to the seaports; it can only be made to operate indirectly upon the agriculturist and manufacturer. The direction of this institution will be entirely in the hands of commercial men; all its power and influence will be lent to them. This, combined with the power their wealth naturally gives them, has heretofore, and will continue to give them a decided ascendancy in the Councils of this nation. It is believed that this kind of influence has had its effects in producing our existing embarrassments with foreign nations. Sir, the slightest attention to our public acts will show that there has been a great predilection for commerce; that it has met with almost exclusive protection and support; whilst little or nothing has been done for the internal industry of the country—large sums of money have been expended for the promotion of commerce, whilst our infant manufactures have been suffered to pine and languish. The enterprise embarked in this way, never having experienced any kind of encouragement from the General Government. It is time to remove the causes that gave rise to this partial influence.

The power of the States is affected by this measure in another important respect. By its means, individuals, who are mostly foreigners, hold large estates in stock, without being in any way subject to the control of the State government, or paying any tax for its support. Is it just that such exclusive privileges should be conferred? Is it proper that these men, not the most meritorious, should be entirely exempt from the burden of taxation, whilst the true citizen is bound to yield his personal and pecuniary aid?

Another formidable objection that presents itself, is the connexion of this institution with the Government—a dangerous source of influence and power. When the people have to pay taxes for the support of Government, they feel and understand what is going on. If they should be burdened with high taxes, unless a good reason can be assigned for it, they will remove their agents and appoint others who will act upon a better system of economy. But give to the Government a bank with a large capital, and you afford a facility of borrowing, and a source of sup-

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plies utterly incompatible with the genius of Republican institutions. Loans may be had to enable the Government to pursue their projects; expensive establishments may be created and kept up in this way, that the people never would have tolerated, had they been directly called on for their contributions. The ease it would afford of getting money would be the cause of repeated applications to this source; and we may readily perceive how a debt thus created will be constantly accumulating. Upon this subject we have the light of experience to guide us. The English nation presents a sad example. It is true the proposed capital is too small to create much clamor at present—but renew this charter, and it will be augmented as convenience shall dictate. The capital of the Bank of England was small at its first establishment, but it increased gradually as the exigence of the Government required.

Sir, whenever the Government shall have become largely indebted to this bank, it will have acquired an influence over our councils, the idea of which is humiliating; an influence that would not only be degrading, but one that would endanger our liberties, by subjecting us to the control of a moneyed aristocracy. Permit me now, sir, to notice a few of the arguments that have been advanced in favor of renewal. It is said that the practice of this Government is against the rule of construction we contend for: as an example, the act concerning light-houses, beacons, buoys, and public piers, has been cited. This is referred to the power of regulating trade. This act is in truth only a mean to carry into execution a power; it is distinguishable at the first glance from the power to establish a bank. They only tend to promote commerce; they are strictly necessary and properly confined to the object. They go no further than the end in view, not at all impairing the rights of individuals or of the States; besides, there is nothing in them uncongenial with the nature of our Government.

It is further contended that the law now at tempted to be renewed has been sanctioned by the States, and acquiesced in by the people. That, although it might not originally have been necessary, it has now become so. I can see strong reasons why this act granting a charter should not be repealed, although unconstitutional. The system had been introduced; a pledge was given to the stockholders; they invested their funds upon the faith of its continuance for twenty years; it was a contract for that period; to have violated the public faith would not perhaps have been consistent with sound policy. There is a difference between repealing the law and suffering it to expire. The stockholders have not even the color of a claim upon us for the continuance of the charter after the expiration of twenty years. The contract has been fulfilled and completed. They are or should have been ready to close their business. Sir, if this doctrine of acquiescence is correct, many other obnoxious laws, that have been the cause of much heat and ferment throughout the nation, might in the same way be proven to be Constitutional, and might hereafter be re-

ceived for the same reason. It is one of the first principles of a representative government, that a subsequent legislature have the power to change the measures of a preceding one; and it often is necessary they should do so. No State has ever sanctioned this law by a direct declaration to that effect. Their approbation has been inferred from their having passed laws to punish counterfeiters. Sir, the States cannot repeal an act of Congress; they could not prevent the circulation of the notes of this bank. It was therefore essential to pass such laws in order to secure and protect their own citizens from fraud and imposition.

It seems clear to me that an act of Congress not originally Constitutional cannot be made so by any lapse of time. If in 1791 it was unconstitutional, it must be so now. The Constitution does not change with the times. A Republican Administration should not be permitted to exercise a power that they would have denied to the other party. The love of power is natural; man is prone to abuse it. I confide much in those who are at present at the helm, but I will not trust them beyond the limits of the Constitution. "With unremitting vigilance, with undaunted virtue, should a free people watch against the encroachments of power, and remove every pretext for its extension."

The evils to result from the dissolution of the bank, have, in my opinion, been greatly exaggerated; but, sir, this alarm, if real, impresses my mind differently from what it does that of some others. The deep interest excited; the feelings that have been awakened; the memorials constantly flowing in upon us, show the important bearing of this institution and the great interest it has already created.

If we look forward to a period when this charter is to expire; if ever we intend to shake off this illegitimate offspring, now is the lucky moment; its embrace though strong is not deadly. Although some of its advocates threaten, and endeavor to coerce us into the measure by the alarm they have excited, the stockholders yet approach in the respectful attitude of memorialists; we are yet at liberty to act freely; but if this charter is renewed, depend upon it we shall not be able hereafter to stop its progress. Pretexts will not be wanting to extend its limits and augment its capital. The poison already tasted would soon reach the vitals of this Government; our efforts hereafter for relief will be fruitless; they will only serve to irritate and inflame, until at length it will be found that we must tamely submit.

MR. FINDLEY.—That Congress have a right to refuse the renewal of the charter of the bank, or to modify it as they think proper, is admitted on all sides. He himself wished the bill to be much changed from what it is at present. He would be even willing to join in rejecting it, for the sake of trying an experiment, if he was not convinced in his own mind that the experiment would cost too much. We know how far and how well the present bank has answered the intention and the end for which it was instituted. But, supposing

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another National Bank to be instituted, (which he knew was the wish of some members who were opposed to the present one,) very great distress, both public and private, must take place in the mean time, without a certainty of being better served in the end.

Whatever might be said on the ground of expediency against renewing the charter, he had been much astonished to observe the bill so much opposed as being contrary to the Constitution. When the law for incorporating the bank passed, it was opposed in the House of Representatives by a minority—about one-third of the members voted against it. Though he was not then a member, yet he attended to the discussion, and he knew that those who led the opposition were equally opposed to all State banks, of which there were then but three, in the United States, and none of these were instituted "to promote the regular, permanent, and successful operation of the finances of the State," as some of them at least have since expressly been. He was sure that the Bank of North America (the first that had been incorporated) was, perhaps, from the circumstances of the times, considered rather as injurious than beneficial to the State; therefore, that a bank should be useful in conducting the revenues of the United States, was at that time, in the opinion of many, at least doubtful, or a mere theory. But, no sooner was the experiment fully made, than all parties acquiesced in its constitutionality and usefulness. Its constitutionality has been recognised by all the branches of the General Government, through all the changes of parties and Administrations. This could be made evident by numerous instances.

It is true, an honorable member from New York (Mr. PONTRE) has denied this, and alleged that the reason why it was acquiesced in, or not repealed, was, because it was a contract which it was necessary on the part of the Government to fulfil.

Mr. F. said that a contract contrary to the Constitution was void in itself, especially where no consideration was given; that our courts of justice, who were judges, both under the law and the Constitution, would set such contracts aside—much more an act of incorporation for which no valuable consideration had been paid, as the consideration only consisted of the services that were to be rendered, and which, if contrary to the Constitution, ought not to be accepted. So far, however, have the courts of justice been from setting this law aside, that both Federal and State courts have, under the authority of both the Federal and State laws, made decisions for its protection. Or, if it had been contrary to the Constitution, Congress ought to have repealed the law by which it was granted. There was a precedent to that purpose in this country. The Bank of North America was incorporated by Congress at a period of alarming pecuniary distress; but knowing that it had no authority to give it effect, Congress recommended the incorporation of it to the several States. Pennsylvania and Delaware only complied with the requisition—the charter gave an

*exclusive monopoly in perpetuity.* Another company, in 1784, applied for a charter. The Bank of North America opposed their claim with success, in right of their charter. The succeeding Legislature considered the *exclusive* right and the *perpetuity* to have been granted in violation of the Constitution, and therefore repealed that charter, and afterwards granted a limited charter to the company. Political parties have changed since the United States' Bank was incorporated—those that now prevail have been the majority about half the time—yet, so far have they been from repealing the charter, that they have extended its powers and availed themselves of its accommodations. It was a mistake to consider the authority to incorporate the bank to be a separate and distinct power, and therefore not granted to Congress. It was not even, as some members have called it, a constructive power, or power by implication. It was inseparably included in the powers expressly granted, as the means to accomplish the end; for it is in all cases admitted, that where an object or duty is enjoined, the means of accomplishing the object or of performing the duty are included. This is too plain to require proof or illustration.

The powers vested in Congress, or the duties enjoined, are, to lay and collect taxes, duties, imposts, &c.; to pay the debts of the United States, &c.; and the object prescribed is the public good and general welfare of the United States. They have also the power to provide for raising and supporting an Army and Navy, and for borrowing money on the credit of the United States.

Surely no member will say that the safe-keeping—the most cheap and certain manner of collecting the revenues, and the most expeditious and the least expensive manner of transmitting them to the destined places, and paying them to their appropriate uses—are not included in the before-mentioned powers. If they are not, the powers themselves are a nullity, because they cannot be executed. Custom-house bonds are by law lodged in the banks for collection.

It is admitted that these powers included a choice of means, and a discretion in the application of them, as they did in the various objects of taxation. Congress might have instituted numerous offices of deposit, and paid high salaries, and required sureties equivalent to the risk; and they might have employed public officers sufficiently protected to transmit the money to the various places where it was required, and to pay it to the appropriate uses. To this method no doubt nations had resorted before banks were introduced; but surely this method would be more unsafe, more uncertain, much more expensive, and attended with much more delay, than the agency of a bank, whose capital gave sufficient security, and whose paper is in great circulation and credit. Therefore, whatever might have been the different opinions before the experiment was made, yet, having been successfully made, it is evident that it was the best means to accomplish the end.

The honorable gentleman from New York, however, has admitted that banks are necessary

and proper for collecting, transmitting, and safe-keeping of the revenue, but alleges that the State banks are sufficient for that purpose. This, Mr. F. said, as he understood it, was giving up, in a great measure, the point. If the use of banks is necessary to carry the revenue powers into effect when this charter was given, and when there were no banks south of Philadelphia, and it is believed but two east of it—there not being State banks sufficient at the period when the charter in question was granted, in any degree adequate to the purpose—the Bank of the United States was a necessary means or instrument for executing the revenue powers vested in Congress, and therefore not contrary to the Constitution. If at that time it was not, then it may be asked when it became so?

The State banks are not by their charters in any degree responsible to Congress; they are not obliged to inform it of the amount of their capital, or their debt, or paper issued, or of their deposits. Surely no member would agree to deposit the revenues of the United States with, or transmit them through, institutions of the solidity of whose credit they were not well informed. He did not mean, however, to say that it was not possible to select such a number of State banks as would be sufficiently safe for deposits, or that such a connexion of these banks might not be formed as would make them responsible for the safe and speedy transmission of the revenue, and give the necessary information to Congress of the state of their affairs. Yet, supposing this was all completed, this union of banks would be in so far a National Bank, subject to the same objections, and to the following defects: The notes of all these banks would not pass through the whole United States, and the continuance of the charter would be at their discretion, and on the terms prescribed by the respective States. Indeed, it would occasion such a competition between the different States and the United States, in conducting their respective revenues, as might be inconvenient.

He did not mean to depreciate the State banks; many of them are worthy of the highest confidence, as far as their power and operations extend; but surely it will not be said that all of them are so. The paper of some of them is well known to have depreciated; the paper of many others is current, but to a small distance; they will not carry many of the members of this House from their homes to this place; the paper of none of them will pass throughout the United States.

Mr. F. said, there had been an unusual liberty taken on this question of introducing party epithets. He did not really know what that had to do with the question. The parties connected with all banks are the men that have money to vest in them for their own profit and at their own risk, and those who have credit, on which they receive accommodations from the bank; and there is a third party, who have neither money nor credit, and who have no interest in banks further than the accommodations received from them sometimes enable their employers to pay their

wages the more promptly. You may call these parties Federalists, Republicans, Aristocrats, or what you please, but those who have the most money and are the greatest stockholders will eventually have the direction of the banks, and those who have the greatest credit will obtain the largest accommodations. We know of some banks instituted by one political party, which has come under the direction of another; they purchase the stock in market. We find indeed great opposition to the renewal of the charter of this bank, but not a single charge of misconduct, except the alleged appointment of two improper directors in a distant branch. Surely the bill might be so amended as to give reasonable security against such appointments. He was but little acquainted with the branches, but he had heard no complaint against the direction of the mother bank, and was well assured that the Republicans of Philadelphia had as liberal accommodations, and that as much of much of their paper was discounted there as in any other bank, which, if the charter is not renewed, they must then redeem.

Congress is vested with the power of receiving money on loans, and consequently of providing the best method of procuring loans; and it is universally admitted that banks are the best sources from which to receive loans, without delay, without difficulty, and at moderate interest, and for no longer time than the loan is necessary. In the early stages of our Government our revenue was small, and our debts and expenses great. In addition to these we soon became involved in a tedious, very expensive Indian war. It continued five years. During this period numerous loans were made from the bank, till more than three-fifths of the whole capital was loaned to the Government at common interest, payable at discretion. Another crisis of difficulty and expense arrived, viz: hostilities with France. Money was wanted; the bank could advance no more, it had already loaned too much. The Government was obliged to open books for a loan at eight per cent. interest, irredeemable for ten years; but few years had passed before money could have been borrowed at a reduced interest for its discharge; nay, but a few years had passed till it could have been discharged at the Treasury, if it had been redeemable; much of it, as well as bank and other stock, was sold to purchasers in Britain and Holland.

It is believed by many, that a loan might be made to a large amount now on better terms; but when he considered the great drain of specie from the country during the last year, the losses in Europe and the unusually small amount of specie imported, or that was in the vaults of the different banks, he thought there was little encouragement to try the experiment. Such loans must be of a money that would pass throughout the United States for all payments.

Mr. F. said, that having entered more largely on a former occasion into this question, he did not intend to detain the House now. He had, as much as he could, avoided repeating what he had formerly or what others on the same side of the question had expressed. He had, therefore,

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avoided mentioning the public and private distress that must result from the immediate dissolution of this bank. Even admitting that the specie stock purchased by foreigners, believed to amount to \$7,000,000, should not be immediately removed from the country, yet it would be diverted from its accustomed uses; and, instead of giving relief as at present, might speculate upon our distresses. He believed, that suddenly calling \$15,000,000 of current medium out of the usual circulation could not avoid in any country being the cause of at least a great proportion of both public and private distress. Therefore, he could not by his vote support the measure. It will have other inconveniences, which have not been mentioned. When the bank winds up its business and makes a transfer to trustees, it is not by charter obliged to call in its notes from a circulation that is widely extended throughout the United States. The holders indeed will have their remedy at law against the trust, but this may be a tedious and inconvenient remedy for many note holders.

It has been asserted by more than one member, that the institution of the bank was the foundation or source of the party spirit that has unhappily prevailed in this country. He wished, before he sat down, to correct this mistake, passing what prevailed before the Government took place. It was the funding system, in the manner it was conducted and the extent to which it was carried, and the consequent speculations, that was the source of that unhappy party spirit; but especially the assumptions of the State debts before they were liquidated or the amount known, and which, after having been once rejected, was carried by a very small majority; as a fund for this debt, the excise and other unpopular internal taxes became necessary. It is well known that about \$3,500,000 of this assumption is yet due to the United States from the States that were paid that much more than enough, and which no method has been, nor probably can be found, to recover. Unfortunately, almost every session some measures are so conducted as to keep alive, if not promote, that ruinous party spirit by which our national character is degraded, and our measures embarrassed. He questioned much, if rejecting the bill without attempting to amend it, is calculated to allay that unhappy party spirit.

When Mr. F. had concluded, a motion was made to adjourn, and carried, 54 to 51.

TUESDAY, January 22.

A message from the Senate informed the House that the Senate have passed two bills, entitled as follows: "An act concerning the communication by water along the Northern confines of the United States, and for other purposes;" and "An act to incorporate the Union Bank of Georgetown;" to which bills they desire the concurrence of this House.

Mr. SMILIE presented to the House a resolution of the Legislature of the State of Pennsylvania, instructing their Senators and requesting their Representatives in the Congress of the United

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States, "to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State;" which was read, and ordered to lie on the table.

The resolution is as follows:

*In the General Assembly of the Commonwealth of Pennsylvania.*

The people of the United States, by the adoption of the Federal Constitution, established a General Government for special purposes, reserving to themselves; respectively, the rights and authorities not delegated in that instrument. To the compact thereby created, each State acceded, in its character as a State, and is a party; the United States forming, as to it, the other party. The act of union, thus entered into, being, to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise; for if it were so to judge, then its judgment, and not the Constitution, would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the Constitution, it rests with the States and with the people, to apply suitable remedies.

With these impressions, the Legislature of Pennsylvania, ever solicitous to secure an administration of the Federal and State Governments, conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz: the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction, that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognised in that instrument, either expressly, or by any warrantable implication: Therefore,

*Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met,* That the Senators of this State, in the Senate of the United States, be, and they are hereby, instructed, and the Representatives of this State, in the House of Representatives of the United States, be, and they hereby are, requested to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State.

*Resolved,* That the Governor be, and he hereby is, requested to forward a copy of the above preamble and resolution to each of the Senators and Representatives of this State in the Congress of the United States.

#### BANK OF THE UNITED STATES.

The House resumed the consideration of the report of the Committee of the Whole on the bill for the renewal of the charter of the Bank of the United States; the motion for indefinite postponement yet under consideration.

Mr. McKIM.—Mr. Speaker, the subject now under discussion involves an important Constitu-

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tional principle, which presents to my mind an insuperable objection to the passage of the bill. It is not, however, my intention to enter on a discussion of the Constitutional principle which has a bearing on the bill. That part of the subject has been ably and critically discussed by my honorable friend from New York, (Mr. PORTER,) and by other gentlemen, who have spoken on the same side of the question. On this part of the subject, sir, I will only observe, that a former Congress having decided the Constitutional question for themselves, by passing the law to incorporate the bank; the tribunals of the nation having sanctioned it, as it respected themselves; or the several States having, without rebellion, but not without murmuring and complaint, acquiesced in such decision, cannot quiet my conscience, nor satisfy my mind on the subject. The question now recurs; I have to act on it, and I must decide it for myself.

I will now endeavor, sir, to submit to the House a few desultory observations, which have for their object to explain some of the practical operations of the banking business; to show the probable effect of the dissolution of the bank charter, and to answer some objections which have been raised against its being suffered to expire.

It has been urged, as a motive for the renewal of the charter, that the concerns of the bank have been conducted with impartiality to persons of different political opinions. In answer to this, I beg leave to read part of a speech, said to be delivered on the floor of this House, and reported in one of our public papers; and also a letter from a gentleman in Baltimore, to whom the speech alluded: "It had been asserted, (says his speech,) during the last winter, that the branch bank in Baltimore had accommodated only one particular class of political gentlemen. He (Mr. STANLEY) had it from good authority, that a distinguished Republican house in Baltimore, of which a member of the Senate was partner, had obtained a greater portion of discounts than any other merchants in that place."

The letter to which I alluded, is in the following words:

"DEAR SIR: Will you have the justice to state to the House of Representatives, as early as you have an opportunity, and in direct contradiction of the unfounded assertion contained in the enclosed, that the Republican house in Baltimore, of which a member of the Senate is a partner, has received but two discounts from the branch Bank of Baltimore, to wit: one of nineteen hundred and sixteen dollars and fifty-five cents, and one of eighteen hundred dollars; the first on the 14th of April, and the second on the 14th of May, 1798; although the transactions of the house with that bank amount to nine hundred and thirty-six thousand three hundred and twenty-two dollars and fifty cents."

[Here Mr. STANLEY explained. Perhaps it had not been his good fortune to be understood in the remarks which he presumed were alluded to by Mr. M.'s correspondent. It was his meaning, if not his words, that, although partiality had been charged in the distribution of the favors of the branch bank of Baltimore, he had been in-

formed from good authority, that of its discounts, more than one-half had been obtained by gentlemen of politics opposite to those of the bank; and that, in the purchase of bills of exchange, this bank had purchased a larger amount from the house alluded to, (Smith and Buchanan,) than from any other house in Baltimore.]

I am satisfied, said Mr. M., with the explanation. I have not introduced the speech and letter, so much to support my argument as to do justice to my friend; nor can I vouch for the correctness of the report.

It has been stated that nineteen or twenty millions of dollars are due to this bank, whose charter is now about to expire; that, if the charter is not renewed, it will produce great distress, and general bankruptcy will ensue; that the bank, in winding up its concerns, can receive nothing but specie, which will exhaust the resources of the other banks and individuals, and thereby produce a result the most disastrous to the mercantile interests of the nation. This statement is incorrect. By the returns from the Treasury, it appears that no more than \$1,318,024 was due to the bank; and that the bank is indebted to the public and to individuals, in the sum of \$11,542,320; and all the offsets it had against the heavy debt, are the above sum, due from different State banks, of \$1,318,024.

Mr. M. illustrated this position by the following detailed statement of the account, which he read in his place:

The bank owes to Government for deposits	\$2,493,362
It owes to individuals for deposits	3,891,680
It owes for its notes in circulation	5,157,378
Total amount of its debts	\$11,542,320
Deduct from the amount of debts due by the bank, its only offset	1,318,024
Leaving a net balance of debts due from the bank, of	\$10,140,296

This, sir, is the present situation of the expiring bank, by its own showing.

Gentlemen have involved this subject in obscurity, by supposing the fifteen millions of dollars, held by the bank in discounted notes, as a debt due to the bank. Sir, there is not one cent of these notes due, except a small sum that is in suit. If these notes were really due, it would materially change the state of the account. It would then possess the means of spreading terror, if it was disposed unnecessarily so to do; but we must take the account as it is; and if we would know how it stands at any particular time, we must judge of it as we do of a race, by viewing both sides at the same point of time. Judging in this way, we find that this bank now owes a net balance of upwards of ten millions of dollars.

Now, sir, I would ask, can any gentleman believe that it will be in the power of a bank, thus heavily indebted, far beyond the extent of its present means, to spread such terror, and produce such distress, as has been stated, when it is de-

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prived of the public and private deposits, of which it will be deprived, when it is known that the charter will not be renewed? It is true, that, while these funds—the debt it owes—and a continuance of the public deposits, are suffered to remain in its possession, it may do much to create distress; while these funds are in its hands, it can employ the whole pecuniary resources of the nation to coerce other banks and individuals into its measures, if it were so disposed.

I wish it to be clearly understood, that I do not mean to say, or to insinuate, that this bank had unnecessarily used coercion, to create distress, or to obtain the object of its wish—a renewal of its charter. But while these funds remain in its hands, they produce this effect. They render it a measure of prudence and necessary precaution in other banks not to issue their paper, to aid the customers of this bank, or others indebted to it, to retire their notes; and this operates powerfully on my mind as a reason for urging a speedy decision of the question. I am of opinion, if this question is settled, let it be determined as it may, that all the difficulty and distress resulting from the probable dissolution of the charter will soon be dissipated, and things then resume their usual course. If the charter is not renewed, the expiring bank will lose its power of holding other banks in check, by the withdrawing of public and private deposits; which, being placed in other banks, will increase their means of giving aid to those who have paper to retire from the expiring bank. This bank having now no other than its own natural means, will no longer be an object of dread to other similar institutions; they may now freely lend their aid to relieve the distressed, and their increased means will be adequate to the object.

It has been suggested that the capital of this bank, owned in Europe, will be remitted in specie, if the charter is suffered to expire; and that such a drain of specie would be severely felt by the banks, at this distressing time in our commercial concerns. There is no necessity for remitting this capital in specie; and I do not believe one dollar would be so remitted, because it will not be the interest of the proprietors that it should. Exchange is low; I believe bills might be purchased at  $7\frac{1}{2}$  a 10 per cent. below par; and if remitted in specie, the freight and insurance could not be less than five per cent. A remittance in specie would then be  $12\frac{1}{2}$  a 15 per cent. less favorable than to remit in bills. Men are usually governed by their interest in transactions of this kind; and I do believe that the managers of this stock, if it is to be remitted to Europe, would remit it as other gentlemen do, in bills. But if it must be remitted in specie, it is probable there is some unknown cause, operating on remittances generally, that gives an advantage to remittances in specie; and if this be the case, the whole amount of our imports from Europe will probably be thus remitted. The amount of our imports from Europe, annually, is probably not less than eighty millions of dollars; and if specie must be shipped off to pay for these imports, it

will not add much to our distress to let the bank capital go with it; but I am of opinion that one dollar will not be shipped to pay this stock.

It has been stated by my honorable colleague, whom I do not now see in his place, (and I regret that I do not, that I might be corrected, if I misstated what he said,) that fourteen millions of dollars would be thrown out of circulation if the charter of this bank was suffered to expire; that the bank discounted fourteen millions of dollars; and, therefore, must have issued its notes to that amount in payment for the discounted paper. This is incorrect; one-half of the discounted paper, it might be fairly estimated, was of what is denominated accommodation notes; and for this portion of the discounted paper no money goes out of the bank after the first renewal; but, on the contrary, money is brought into bank in this part of the business to pay the interest, or discount, on these notes. I beg leave to explain to the House the nature of what is termed accommodation notes. They are notes for which no value has passed; they are given by the maker of the note to accommodate the receiver of it, on an understanding between them, that, when due, it will be taken up by the person who received it; and discounts on this kind of paper are in the nature of a permanent loan, so long as the person accommodated requires, or as it may be convenient for the bank to continue it, the note being renewed every sixty days, and the interest paid thereon. But the proposition is equally incorrect as it relates to the notes discounted; which were given on some actual transaction in business; notes are not issued by the bank to the amount of the real paper it discounts; money is constantly coming in for notes that fall due; and, in the course of trade, it frequently happens that the money paid in one week, on discounted notes, is the next week, by various windings and changes, again in bank, to discount nearly a like amount.

The real diminution of the circulating medium that will result from the dissolution of the charter will be five millions of dollars. The report from the Treasury, laid on our tables, states that the bank has five millions of dollars of its notes in circulation, and these, of course, will be paid off and destroyed when the bank ceases to act; and as it will then receive no more deposits, the means of other banks will be enlarged; whereby they may issue an increased amount of notes, perhaps nearly equal to the extent of the diminution that will result from the decease of the charter.

I will repeat, sir, what I before said. When the question of the charter is settled, the difficulties and distress that now exist will soon cease, and an accommodating disposition will then take place; the expiring bank will relinquish its pretensions to receive nothing but specie in payment; it will see the necessity of receiving payment in the paper of other banks that are in credit; it will receive payment in such bills as other banks and individuals receive freely. And why will it do this when it has a right to insist

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on specie? Because it will be urged to do so from interest and necessity. It has a large debt that will be shortly falling due from its customers, and how will they be able to pay if the bank shall draw all the specie into its vaults, and keep other banks in check, so that they can afford no aid to its customers to retire their notes when they fall due. The specie cannot be wanted by the expiring bank. Every object of winding up, remitting, and paying its capital, can be managed to equal advantage without it; and will this bank, without a motive, and in opposition to its own interest, endeavor to produce distress by thus unnecessarily drawing the specie into its vaults? Certainly it will not. But if it should act so unadvisedly, who is to be the greatest sufferer? Who has a greater interest than itself in facilitating the payment of debts? None have a greater stake at hazard than this bank, and I venture to say, that none will be more disposed to promote the general convenience and prosperity than it will be. I have no fears of this spectre of misery and distress that has been artfully conjured up to alarm us into a renewal of the charter.

My honorable colleague (Mr. KEY) has made an eloquent display of the benefits of banking establishments in our agricultural improvements, our manufactures and ship building; and that, if this bank was put down, the effects would be severely felt in the reduced price of produce, and in our improvements generally.

I accord most heartily with the honorable gentleman as to the benefit of banks to a reasonable extent. No one is more perfectly convinced of the benefits resulting from them than myself; but I deny that such injurious effects would be produced by suffering this charter to expire. Is there no other bank but this one, founded on foreign capital, and administered more or less under foreign influence, that can produce and perpetuate these benefits? Surely there are others as capable, and as much to be relied on as this. The capital of this bank forms but a small portion of the aggregate bank capital of the nation, and if its charter should expire, the benefits mentioned will not be lost. No specie will be destroyed, or sent out of the country by its dissolution. Specie is the basis of bank capital, and if we have specie to meet them, we can easily make bank notes enough without the aid of this bank. The bank notes that will be thrown out of circulation are all that will be lost by the dissolution of the charter; and if we have specie, we can soon supply their place. There is no scarcity of paper among us.

The charter of this bank was granted for a limited time; the privileges and immunities it granted were great. The interest it yielded on its capital, and its credit, are liberal; and the increased value the charter gave to its stock was great. This stock, originally only ten millions of dollars, soon became worth fourteen millions under the charter; the company have enjoyed these benefits in the fullest extent, without molestation; their chartered rights have not been infringed or

violated; and the charter is now about to expire by its own limitation. And this valuable inheritance of benefits about to descend, with the death of the charter, to the people of the United States, it will become their joint property. About seventenths of the present stockholders are foreigners; and, shall we, the guardians of the rights and interests of the American people, perpetuate these benefits to foreigners, by a renewal of the charter to them, in preference to those whose interests we have been chosen to protect? Persons unconnected with the public business might, perhaps, wink at such an act; but if we, in our representative capacity, should do it, will it not be to record our infamy?

Under these impressions, Mr. Speaker, I am prepared to give my vote for an indefinite postponement of the bill. But, if the section stricken out in Committee of the Whole shall be reinstated, and the bill shall come to a final vote, I must record my name against its passage.

Mr. GOLD.—Mr. Speaker, although this question has long engrossed the consideration of the House, I must ask the indulgence of the House to the observations I may offer. I will not trespass on your patience.

The question of expediency, together with various extrinsic topics, I pass by unnoticed; on these let the judgment and not the feelings of the House, which have been so much addressed through *ex parte* statements and suggestions, determine.

On the great Constitutional question, involved by the bill on your table, it is the fruit of my best reflections—it is my deep conviction, that the agency of a bank is necessary to the administration of the finances of this country; that it is eminently necessary to the great exigencies of war. This is the test; on this pivot rests the question. In coming to the conclusion I have, sir, I disclaim the doctrine of implication of powers—of constructive powers—now rendered so odious and so unjustly imputed to those who maintain the constitutionality of this bank; I ask only the application of a plain simple rule, which is as old as first principles; as extended in its operation as the empire of law; to be found in all codes, applicable to all instruments, as well to conventions between States as to the contracts of individuals.

It is, that with the end is given, inseparably given, the means; that, with the express powers given to this Government, is also given the means necessary to carry the Government into successful operation—not merely to move the wheels, but to give an effectual impulse, necessary to the exigencies of the country. When gentlemen survey the extended Department of the Treasury, the wide theatre of the public expenditure, commensurate with the United States; the daily transmission of moneys (to satisfy the public demand) in every direction, to the furthest limits of the Union; to the frontiers; to your garrisons; to places with which there is no commerce, on which bills of exchange cannot be obtained; can they avoid seeing the Treasury involved in the



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utmost embarrassment by withdrawing the aid of a banking institution? Such embarrassment, to my mind, is inevitable.

But, sir, if doubts could exist as applicable to a state of peace in the great and trying emergencies of war, there is not, I did hope, room for diversity of opinion; the necessity of the institution, in my conception, is eminent, is indispensable. Money is the sinew of war; for want of it, to satisfy a needy, discontented army, the most important operations of a campaign have been arrested, and the most disastrous results produced. Our own country, sir, the patriotic army of the Revolution, and one more patriotic, I fear, we shall never see, furnished one if not more instances of discontent and actual mutiny, for want of pay, (for want of that which this institution could so promptly furnish,) which was not appeased without resort to military execution.

However pacific in its policy, let no nation promise itself continued exemption from war; history gives no assurances of this kind; no wise Government, in its policy and institutions, ever lost sight of a state of war. In case of internal dissensions, in public convulsions, the prompt aid of a bank may be equally necessary. It is the observation of a distinguished writer, who had well considered the events of the Revolution, that the independence of this country was, in no small degree, indebted to the Bank of North America.

But, it is said, that the best resort of Government is to the purse of individuals, that this source will be found abundant. It is, Mr. Speaker, on public emergencies, in times of public convulsion, under the severe pressure of war, when ready supplies of money become indispensable to Government, and it is at such a period that alarms spread, and distrust seizes on the community; it is then that the moneyed man withdraws himself, places his cash in a strong box, and, not unfrequently commits it to the earth, beyond the reach of Government. We have no power of drawing the Jew's teeth; no resource in a forced loan.

In the course of debate, on this bill, it is not a little amusing to observe the desperate efforts, the contradictions, and inconsistencies, which gentlemen, in their zeal, fall into. At one moment it is most strenuously insisted, that nothing short of an express provision, in the Constitution, to create corporations, can warrant the establishment of a bank; the next moment it is admitted, and strange, indeed, had it been denied, that, if a bank be a necessary mean for the execution of the delegated powers of the Government, then must it be Constitutional.

The most fruitful source of error, Mr. Speaker, is in the palpable misinterpretation of the term "necessary" in the Constitution; it has been reiterated again and again under this head of the argument, that a mean to be necessary, must be absolutely, indispensably so, without which the operations of the Government would be arrested. Now, sir, all this is contrary to the sense in which that adjective is used by the most approved wri-

ters, and in direct violation of the elementary principles of our language. If gentlemen will take the trouble, and I invite them to do it, to recur to the best writers and philologists, they will find the term used in a sense implying only what is needful, or requisite, and not what is extremely so, or indispensable; and why, sir, should it be extended beyond the above limits? Is it not an adjective of comparison—for the argument has carried us back to the schools? Is it not in every day's use, and correctly so, that one thing is "necessary," another more so, and a third indispensably so? Have we not seen here, upon this floor, a member rise, and call for the order of the day on a bill "necessary" to be acted on; another member call for one more necessary, and a third for one absolutely and indispensably necessary? And yet, sir, gentlemen continue to urge upon us, that "necessary," in its positive, uncomparative state, imports the superlative—means indispensable. Such arguments, sir, not only prostrate the bank, but subvert the very foundation of language. Again, sir, it is said that no mean is given by the Constitution, if the operations of Government can possibly be carried on without it. Is this dishonor to be done sir, to the memories of those wise men who framed our excellent Constitution? Was it the height of their high ambition, the fruit of all their labors, to give the country a limping, halting Government, to move with a snail's pace, to give to the wheels an impulse, the least possible, competent to move them? Upon this argument, sir, the Government itself ought not to have been established at all, as without it the country might have subsisted; we might, probably, have defended our territory and retained our liberties, at least for a considerable period; we might have moved up and down, and consumed the acorns of our forests. A higher ambition moved the worthies who laid the foundations of this goodly fabric of Government; and I will not hesitate to honor them so much as to say that they intended to give to the Union a Government for attaining the highest degree of political prosperity of which the condition of the States and the nature of a Federative compact is susceptible. Such, sir, in my apprehension, was the object of the Constitution, and, I beg leave to add, that this object may be carried into effect without touching the rights, the interests, or happiness, of those States. Nay, sir, the best interests of each and every State in the Union imperiously demands of Congress, in despite of all the covert movements of State banks and State politicians, independently to carry into effect the bill on your table. Let us not, sir, shut our eyes to the quarter from whence danger threatens, to the interests and ambition of States, who, assuming a control or influence over the representatives of the people, would, in effect, dictate to you what course you are to pursue. Here, sir, at this period, lies the danger to the Constitution. We are arrived at a crisis when it is considered almost an act of hardihood to vote on this question in opposition to the wishes of the State to which a member may belong, signified by a resolution of the

Legislature. If this influence, sir, is to prevail over the Councils of the Union, then, indeed, are we degraded, our sovereignty lost, and all the weaknesses and maladies of the old Confederation returned again upon this body politic. I repeat, sir, if this bank shall fall, it will owe its fate to the baneful influence of individual States, governed by their own banking interests, over the Councils of the Union.

The argument, sir, in support of the constitutionality of a banking institution, as a mean necessary to execute the Government, is greatly strengthened by the consideration that the jurisdiction of the Government over the specified subjects of its cognizance is sovereign.

In the division of power, certain subjects of legislation remain with the individual States for their sole and sovereign jurisdiction; other specific subjects are, by the Constitution, committed to the exclusive cognizance of the Government of the Union; all legislative power over those subjects is not only given to Congress, but expressly denied to the States. With these plain landmarks before him, I was not a little surprised to hear my honorable colleague, (Mr. PORTER,) in a speech of so much method and ingenuity, contend that the Government of the Union was not sovereign in anything; that sovereignty was to be found alone with the people. To the people, sir, we always bow with respect; it is among first principles that all power flows from the people, and is to be exercised for their benefit and welfare; the people are the legitimate source of all power, and it is from them the Constitution is derived: but, sir, the moment the Constitution is formed, and the Government established, the original sovereign power of the people is parted with; it is transferred to the Government, and all interference with its exercise is lost, except through the medium of elections. Need I refer to a host of writers on civil society and Government for all this? The result is inevitable, that the power of this Government over the objects specifically and exclusively committed to its jurisdiction, is full, entire, and sovereign. The principle of my colleague would give us a Government of men, not of laws, the very definition of despotism. This view, sir, repels the strict, the narrow, meagre rules of interpretation which have been applied on this occasion. Another position of my colleague is equally unfounded. He insists that the Government of the Union and the respective States have a mixed or combined jurisdiction over the same subject-matter; and hence a new restriction in created on the power of Congress. What, sir! is the power given to Congress, and the means to execute it reserved to the States?—for such is the application and consequence of the argument.

The very face of this proposition involves contradiction and inconsistency; it would make the Constitution a *felo de se*, and annihilate the Government. We are carried back again into Egypt; to the old doctrine of dependence and requisition of the Confederation upon the States. Such, sir, is the extent, such the desperate efforts

of argument to cut down the powers of this Government and prostrate this institution.

I cannot, sir, pass over another argument against the bill without notice. It is said that the banks of the States may be resorted to in the administration of the finances. Here, sir, by this argument, the whole question of constitutionality is given up, for the very necessity of the resort to State banks maintains the agency of a bank as necessary in administering the Government; it is on this pivot, necessity, that the whole question turns. In steering clear of Scylla the argument is lost in Charybdis. This necessity of bank agency is so indispensable to the Government, that gentlemen look with fear and trembling upon the intermission of a day between the expiration of the charter of the present bank and the new and gladdening reign of State banks. It has been stated on the floor of the House, that arrangements are already making with State banks for the accommodation of the Government. Preparations are in forwardness for celebrating the nuptials of these State damsels, who, with little modesty, attend in the ante-chamber eager to rush into the arms of Patronage in the Treasury. Do ye not discern the signs of the times? Are the policy, the co-operation, and active movements of the State banks not seen? While the United States' Bank is going down, do you not observe the wreckers hovering on the coast?

But, sir, this great question of constitutionality does not depend on the occasional existence or non-existence of banks in the States, but on the intrinsic power, given by the Constitution, without regard to the extrinsic, contingent, and uncertain co-operation of State Legislatures.

What the future policy of the respective States would be; whether State banks would be established, able and willing to aid this Government, and safe depositaries for the revenue, could not be foreseen by the framers of the Constitution. Such an argument, resting on such contingencies, would at one period make a thing Constitutional, which at another would be unconstitutional.

To all those who are averse to a multiplication of banks and bank stock, permit me to observe that the States stand ready to fill up, by new banks, the vacuum or space left on the expiration of the United States' Bank, as rapidly as the motion of fluids under the principles of hydraulics; nay, sir, some have already anticipated the event by a litter of banks, and hence, sir, we have witnessed the struggle of a parent's affection to protect the offspring.

It only remains, sir, for me to call the attention of the House to the past.

It is now twenty years that this bank has been in operation, in constant intercourse and correspondence with the Government under all the revolutions of parties; during which period we have the concurring testimony of all the States in the Union in support of its legitimacy, deducible from their acquiescence and satisfaction; for, sir, after the agitation excited by its creation had subsided, I have not been able to find among all

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the projects for amending the Constitution, that a single State has touched the power that created this bank. No, sir, this viper in our bosom (to use the impassioned language of gentlemen in opposition to the bill) has lain harmless; harmless, did I say? like a good genius it has administered to our wants and promoted our welfare.

Can the candid mind resist the conclusion, that the people are with the bank? Shall I remind you, sir, that this institution received its existence from the hands of the greatest and best of men; and under the Presidency and with the entire approbation of Washington; that the Constitutional question was decided at a period auspicious to fair inquiry; at a period when party spirit was much less virulent and destructive; that some of the most distinguished supporters of the present Administration concurred in its establishment? Shall this question of constitutionality never be at rest?

MR. JOHNSON.—MR. SPEAKER: I had determined until yesterday to be silent on this occasion, and I extremely regret the necessity which has compelled me trespass upon the exhausted patience of the House upon an almost exhausted subject. I am opposed to the renewal of the bank charter of the Bank of the United States, from the strongest sense of duty which can be felt by the Representative of a free people—I believe it palpably unconstitutional to renew the charter, and, if it were Constitutional, it is inexpedient, and improper.

It is absolutely necessary that the House and this nation should understand the real question before us—for arguments have been advanced upon premises which do not exist, and remarks predicated upon a case which is not embraced by the bill. This makes it my duty to call the attention to the real question, that we may not dwell longer upon supposed cases. This is not a struggle on our part to repeal any act of corporation, or to deprive any citizen of any vested rights claimed either by nature or by any political act; but an exertion in favor of equal laws and equal justice to all the people of the United States, to prevent monopolies from being given to a moneyed aristocracy, unknown to the Constitution and dangerous to the liberties of the people, and subversive of the State sovereignties. Twenty years ago, Congress in express violation of the Constitution incorporated a bank, called the Bank of the United States—to continue twenty years, which will expire the third of March. It was granted by those principally who have assumed the name of Federalists and who advocated the incorporation of the bank as Constitutional, upon the odious doctrine of implied powers; and which was opposed by those who have since supported the character of Republicans. This very measure was the first that laid the foundation for the two great political parties who have since that period agitated and divided this country. The charter granted in 1791 will expire the third of March, and the stockholders and those under their influence have petitioned Congress to renew the charter for the term of twenty years more. Will

we encourage this moneyed aristocracy and continue this privileged order in the bosom of our country twenty years longer? They have had the exclusive advantage of accumulating wealth and money for twenty years, and they are not satisfied. They wish a renewal of the charter for twenty years to come. Thus, sir, the present Congress have before them the same question which was determined in 1791, viz: to incorporate the stockholders of the United States' Bank twenty years from the third of next March. We are absolved from all obligations on this subject but those of duty to the people; the question stands on its original merits and demerits; for the lapse of twenty years cannot sanctify a breach in the Constitution, nor the acquiescence of the people make that expedient and proper, which is hostile to liberty, equality and justice. Thus absolved from all obligations to promote this institution, from such considerations as have been urged, I am to consult the good of the people.

First, to incorporate the stockholders of this bank, and, thereby continue in existence a moneyed aristocracy and a privileged order of men, is a violation of the Constitution of the United States; that Constitution of union which binds the States together, and which we are individually bound to support by a solemn appeal to heaven.

It cannot be unpleasant to trace back to its source the union of the States. It brings to the patriot's mind the events of the American Revolution. It was in this glorious Revolution that the union of the States had its origin—at a time when we were distracted by domestic faction and threatened with a foreign Power, when in fact we were invaded by a British army, and our political existence was threatened. Thus, while General Washington was at the head of our forces in the North, the sages in Congress were planning articles of confederation as early as June, 1776. Before the Declaration of Independence a committee composed of a member from each State was appointed to draw up articles of confederation by which the States should be bound to each other.

These Articles of Confederation were finally adopted by all the States in 1781. Until which time Congress was the Type of Union, and the rallying point for the States. So great was the influence of these men who conducted us safe through the Revolution. This summary will give us the objects of the union of the States. It was not for the purpose of interfering with State rights—for the purpose of regulating the laws of credence, and the laws of descents, of creating county court-houses and jails, opening State and county roads; this would have been impossible; it would have been an assumption of power destructive to every principle of independence. It was, on the other hand, for the great and mighty objects of common security from foreign enemies and domestic treason and insurrection that the Union was formed. The objects of the Union are confined to those great matters of the Confederacy which could not be effected by a single State. We should, therefore, confine ourselves to those ob-

jects of the Confederacy, that we may not weaken the bonds of the Union by a usurpation of power not given to us by the Confederation—a union sacred in its origin, cemented by the sufferings of the States, strengthened by habit and affection, and sacred in its objects of common security against external danger and internal commotion. The Articles of Confederation being the first written bond of union, let us examine the system and point out its defects, that we may more easily see why the Articles of Confederation were abandoned for the present Federal Constitution. The Articles of Confederation gave to the old Congress the powers enumerated in the present Constitution. The objects of both instruments were the same, the powers principally the same, but different in the execution of those powers. The powers of confederation were Federal in extent, and Federal in their operation. The resolves of Congress therefore, under the Articles of Confederation, had no other force than recommendations to the different States. If men were wanting, the States were required to furnish their quotas. If Congress wanted money for the great objects of union they could lay and collect no tax; they could only recommend the States severally to furnish the requisition. But Congress had no power to force the States to a compliance. And the States could, as many of them did, refuse to furnish the requisition of men and money demanded by Congress. Thus the powers of the United States were Federal in extent and Federal in their operation. The old Congress had no Judiciary—because that would have been unnecessary, as their resolves could not be enforced upon the States in their sovereign capacity, or upon the property or persons of individuals. In this state of things, when commerce languished, when under British influence we were engaged in a bloody Indian war; and our ports and frontiers in British possession, and the States refusing to furnish men and money and comply in all things with the resolves of Congress, although under Constitutional obligation to do so; it was agreed by all that the Articles of Confederation wanted revision and amendment; the States sent their deputies for the purpose of forming a more perfect instrument of union between the States. This was a great and a delicate trust.

Thus the present Constitution originated from the defects of the Confederation—embracing the same great objects of common security; and the powers of both instruments are limited and Federal. In fact they are both a grant of specified powers, and powers not granted to Congress are reserved to the States or to the people. We discover the same objects and powers in the two instruments of union; differing in their operation upon the States and the people. Congress has the power to lay and collect taxes, and to operate upon the person and property of every individual in the United States and with that view Federal, Judicial, and Executive branches were established by the present Constitution, to carry the laws into effect, and to appoint officers to collect the revenue. Congress has a right to

raise an army from the body of the people, and to force a draught if necessary. Whereas the old Congress, under the Confederation, had the same right to require men and money for the objects of the confederacy; but these requisitions operated only as recommendations to the States. From this statement we plainly discover the great and only radical difference between the Confederation and the present Constitution. The powers now exercised by Congress can be enforced upon the persons and property of the people. This operation, and carrying into effect the powers of Congress, is the national and consolidating principle of the Constitution.

Although experience had proven the want of power in Congress to carry into effect the legitimate objects of the Confederation, this national or consolidating principle in the Federal Constitution was a subject of alarm and solicitude to the friends of liberty. This principle was the fruitful source of the most obstinate and rational objections to the adoption of the Federal Constitution; and it was with vast difficulty that the States adopted it. In fact it was adopted under a conviction and promise that amendments would be made, which would leave nothing to doubt or implication—and important amendments were ingrafted accordingly into the Constitution, all tending to demonstrate that we were to assume no power by implication, but confine ourselves to the letter of the Constitution.

To prove that the Constitution should be thus construed, I need only advert to the eighth section of the first article, in which the powers granted to Congress are specifically enumerated, to lay and collect taxes, to borrow money, to regulate commerce, to establish a uniform rule of naturalization, to coin money, to constitute courts of justice; declare war, raise armies, to call forth the militia, &c. And to the tenth section of the same article, where certain powers are prohibited to the States, which had been previously vested in the Congress of the United States, viz: no State shall enter into any treaty, alliance or confederation, nor grant letters of marque and reprisal, coin money, emit bills of credit, or grant any title of nobility, nor lay imposts or duties on imports or exports, or lay duties on tonnage, keep troops or ships of war in time of peace, or engage in war unless actually invaded, or in such danger as will not admit of delay, &c.—and the ninth amendment in these words: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people;" which amendment referred to the prohibitions to be found in the ninth section of the first article, and others of the same kind, viz: "The writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it. No bill of attainder or *ex post facto* law to be passed. No tax or duty shall be laid on articles exported from any State. No money shall be drawn from the public Treasury except in cases of appropriation by law. No title of nobility shall be granted," &c. And more especially the tenth

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amendment, viz: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

The parts of the Constitution recited prove the position taken, that the Constitution is a grant of specified powers; that we can exercise no power not expressly delegated to us by this instrument; that our orbit is circumscribed by the grants of the Constitution, and we should be careful not to usurp authority not given to us. The exercise of authority not delegated, but reserved to the States or to the people, is the very essence of consolidation, which, if enforced by the United States, would lead to monarchy or a despotism. If not enforced, it would convulse the whole nation, and we should see the people quitting their daily avocations; the farmer his plough; the mechanic his shop, to remonstrate against a tyrannical exercise of power. This we have seen on former occasions, not less memorable than this, arising from the same doctrine of implication, and arising from the acts of the very same set of men.

The harmony of the States should not be disturbed. It should not be agitated by the breath of discontent. Its value is more precious than gold or silver. The spirit of union should be cherished by us all in words and in actions. Nothing will produce more happy effects than keeping in the path of our rightful powers; otherwise you generate the most angry passions of the people; you start up the most malignant invectives—order will be disturbed and tranquillity will be interrupted. To produce these unfortunate effects, nothing can contribute more than to disregard the enumerated powers in the Constitution, and exercise tyrannical powers by implication or under some general phrases, such as the "general welfare;" expressions which contain no grant of power, but limited and explained by enumerated authorities; by which construction the power of Congress would be arbitrary and unlimited, as Congress would take upon themselves to judge what measures would promote this general welfare. I wish on this occasion to do justice to the people of Kentucky, by asserting their inviolable attachment to the Union, more especially since in this House its sacredness has been profaned in a manner not to be forgotten. If the people of the West and beyond the mountains have any political idol, it is the union of the States. As the Bible and New Testament are dear to every Christian and true believer, as the basis of his happiness, here and the foundation of his future hopes, so the Union of the States in a political point of view is considered by the people as the surest pledge for the blessing of liberty and the security we enjoy, and the ark of our future hopes and safety. Their union is never profaned by conversations or speculations about disunion. You never hear disunion mentioned in private circles, much less in public bodies. A professor of religion to deny the existence of an over-ruling Providence, would not be more disgraced in the estimation of the real Christian, than a statesman would be disgraced, politically, by even doubting

the advantages of the union of the States. The word disunion, as applied to the States, would produce a heart-rending pang in the bosom of a Western patriot, and I hope it would throughout the seventeen United States and their territories. The people are Republican, and they abhor all measures of a monarchical tendency. They know the United States have been governed alternately by the two great political parties in this country. They have a regard for and a confidence in the Republican party—this regard is not confined to the Western States, but extended to every part of the United States. They believe that truth and equal justice will prevail, where the opportunity is equal, and where the people do exercise the power of sovereignty. The people represent, and in fact, the whole of the States have confidence in every part of the United States. As a people they cherish and harbor no jealousy about large and small States, of commercial monopolies, &c. Nor are they thus attached to the Union from selfish and interested motives—no, sir, their attachment to the Union arises from a noble and generous affection, a magnanimous and disinterested display of patriotism, and love of independence. We have given many proofs of this. At a time when this people were agitated and alarmed at the prospect of having some of their most essential rights interrupted, and when they declared their determination to support those rights, the gold and silver of Spain, in the hands of Spanish emissaries, could not alienate the affections of this people, with all the influence of arch intriguers; and the treason of Aaron Burr had as little effect upon the minds of this virtuous and happy people. Any other attempt would be as vain, however well matured. I feel the consolation which arises from a knowledge that I represent in part such a people, whose affections cannot be estranged from the great American family by promises of future greatness, the hopes of golden harvests, or the expectations of governing provinces with the silver mines of Mexico. With these sentiments, I am now to examine for the particular parts of the Constitution and the arguments which have been advanced to justify this measure. It is not contended by any that the power of incorporation is an express power given by the Constitution to the Congress of the United States beyond this ten miles, over which Congress has exclusive legislation. If then this power is not expressly given, I might here stop and deny the right to exercise it. So far from finding any express clause in the Constitution giving this power, the word corporation or bank cannot be found in any part of this instrument of our Union.

We have seen the exercise of great abilities, and we have been entertained with great research by those who advocate the renewal of this charter. But unfortunately these gentlemen cannot agree among themselves. Is this not the strongest proof that the power to incorporate this bank is not given by the Constitution, and does it not demonstrate the danger of constructive powers? One has contended that this power was included in some of the specified powers; another has con-

tended that this power is given by implication ; and a third contends, that it is an instrumental power given to carry some specified power into operation. This is not all ; the advocates cannot agree upon the specified power in the Constitution out of which this power or means arises. One has contended that the power to lay and collect taxes gives this power as a means to execute the specified power, and to support this position it has been contended that this National Bank is necessary and proper as a means to lay and collect taxes, duties, &c. To strengthen this construction, that part of the 8th section of the first article, which says, that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c., has been resorted to ; another has said that this instrumental power grows out of the express power to borrow money—and a third that this power was incident to the power to regulate commerce, and in fact these three great objects are embraced by the preamble of the bill which passed in 1791, which incorporated this moneyed aristocracy and erected this privileged order of men. With respect to the declaration in the Constitution, that Congress may make all laws necessary and proper to carry the express powers into effect, I should state that the framers of the Constitution intended by this declaration to prevent the doctrine of implication, and to leave nothing to doubt. It was introduced through abundant caution against the strides of usurpation, and it should be the last clause to which he should advert, upon which to build the doctrine of unlimited means to carry the express powers of the Constitution into effect. If our means are unlimited, our powers need not be defined, because one as much as the other is a destruction of our freedom and independence. I shall contend that the means by which we are to carry into effect any express authority should be adapted to the end in view ; that it should not embrace other objects not contemplated by the Constitution, although it may be made instrumental in carrying into effect a specified authority. Under this cloak we might conceal our usurpation of power.

I will ask if this National Bank is necessary and proper as a means to carry into effect the power to lay and collect taxes, duties on imports, &c., to borrow money, or to regulate commerce ? If necessary and proper, is this bank confined to any one of these objects exclusively, or to all collectively, or does it embrace a vast variety of other objects, which are the primary ones, in fact, of this institution, and only embracing these powers in the Constitution incidentally, and as secondary considerations ? Sir, it will be difficult to convince the people that it is necessary, in the language of the Constitution, to create a moneyed aristocracy, and a privileged order of men, extending its branches, its influence, and its strength, into the interior of every State, to collect taxes, to borrow money, or to regulate commerce. The primary object of this incorporation was, to promote usurpation of power, to support the danger-

ous doctrine of implication, and to amass wealth from the labor of the people, and not for the exclusive object of carrying into effect any express authority in the Constitution. Thus, it is evident that this moneyed aristocracy, embracing such a vast variety of objects no ways connected with the execution of any specific grant of power, departs from the letter and meaning of that part of the Constitution which gives the power to carry into effect the specified powers of the Constitution. But now, let us inquire what is the necessary means to lay and collect taxes. If a bank was not intended, I will take duties upon imports, as in that way, we collect our revenue. First, a law must pass designating the articles upon which a duty shall be laid, the amount of that duty, and the manner in which it shall be paid, either upon the delivery of the goods, or upon a credit, by giving bond with security ; and last, to appoint collectors of the revenue, and other officers, to collect and receive this revenue for the United States, with authority to bring suit upon failure of payment. This is a necessary exercise of the power to lay and collect taxes, &c. And where is the statesman who has denied the power as unconstitutional ? Here these means are confined to the object in view, the collection of the revenue ; and certainly, the United States have power sufficient for all the objects of the confederacy, as in the exercise of all the specific grants of authority, Congress may operate upon the persons and property of the individuals of the States to enforce that authority.

It is no argument with me that we are in prosperity and health, and such an institution will not be dangerous. No, sir, establish a precedent in the day of prosperity and it will come upon you in the hour of adversity. This same doctrine of our being unlimited in our means of carrying into effect the grant of powers in the Constitution has already endangered the liberty of this nation. If the doctrine contended for on this occasion be correct, and carried into full force, Congress would be as omnipotent as the Parliament of Great Britain ; the Constitution would no longer restrain us, and the independence of the nation would depend upon the caprice of Congress. Our Constitution would be like the boasted Constitution of Englishmen. And what is that Constitution ? Sir, it is not lettered or defined like ours. It may be changed by Parliament as the Crown party or the people shall prevail. 1st. The great charter of liberty obtained from King John, violently, and in duress, declaring what should be considered the fundamental laws of England ; 2d. A statute in confirmation of the great charter, making provisions to read the same to the people in their churches and public places, semi-annually ; 3. A number of statutes called the conforming statutes, from the reign of Edward I. to that of Henry IV. ; 4th. The Petition of Rights, a declaration by Parliament of the liberties of Englishmen, extorted from Charles I. before the rupture with his Parliament ; 5th. The Habeas Corpus act in the reign of Charles II. ; 6th. The Bill of Rights, and Declaration of

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the Lords and Commons of England in 1688; 7th. The Act of Settlement at the commencement of the eighteenth century, endeavoring to secure the English subject in his personal liberty, security, and prosperity. These, and the like Parliamentary declarations and statutory provisions, constitute the Constitution of England, which the same Parliament has a right to alter or abolish. I never wish to see Congress invested with a power to change the Constitution, sanctioned by the people in their highest sovereign capacity. The Constitution has vested us with power enough, and if we want more, amend the Constitution in a Constitutional way, and not tyrannically exercise power never delegated to this body. The ground on which we stand is delicate, and the duty we owe the people should teach us caution, more especially when we see men in power too apt to grasp at more, and exercise it oppressively. We should never forget that all power flows from the people; they are sovereign—I hope they will ever remain sovereign in this country. Our safety is with them. They are unambitious, they are virtuous, and have no temptation to overturn those liberties which they themselves enjoy. But this measure is a violation of the Constitution in another respect, by interfering with State rights. This corporation can send a branch bank to any part of the United States without consulting the States or the citizens of the States. Suppose, sir, they should send one of these branches to Frankfort, Kentucky, with a great capital, and under the sanction of the General Government, would it not lessen the profits arising to the State, and to the people of the State from the State bank of Kentucky, as established by the laws of that State? I presume it would. It would contract very much the circulation of the State bank notes, and would, in many other respects, come in collision with State rights. Every State has a right to regulate its own moneyed concerns, to incorporate banks, or not, as interest or inclination may dictate. But in the zeal of some gentlemen to continue this moneyed aristocracy in the United States for twenty years to come, they have denied the right of the States to incorporate banks, and that Congress alone has the power. This doctrine is new to me. When Mr. Madison, and other patriotic statesmen, denounced this measure as unconstitutional, in 1791, it was not contended that the States had no right. It was admitted by the lovers of implication that there was a concurrent right. Thus we behold the progress of opinion to support a favorite measure.

If this bill passes, and the States have no right to incorporate banks, I suppose the State banks throughout the United States must be put down, or burned up, to give way to this great engine of foreign influence. "The States shall not emit bills of credit." This is the prohibition relied on to take the right of incorporation from the States. Bills of credit is another phrase for paper money. The States shall not issue paper money and make it a legal tender. The men of

the Revolution knew this. The great calamity which individuals suffered by the paper money demonstrated the necessity. But no man is obliged to take the bank notes of a State bank for the payment of a debt, or in common transactions. It is at his option, and the moment you get a bank note, you may present it to the bank and demand your money. Not so with bills of credit, or paper money, issued and made such by the State. It would be extremely difficult, I presume, for any gentleman to convince the States by argument that they had no right to incorporate banks, and it would be equally difficult to force the States to destroy their local banks for the United States' Bank, owned principally by foreigners. Not only the bank in its moneyed operations would interfere with State rights, but the rules and regulations of the bank, as heretofore established by Congress, have interfered with the laws of the several States in their municipal regulations, as to the tenure of property and the liability of the corporation to pay their debts.

Mr. Speaker, I have said as much as I conceive it my duty upon the unconstitutionality of the bank charter. I am to ask your indulgence while I endeavor to prove its inexpediency and its dangerous tendency to the freedom of this nation. In the hand of a private citizen wealth will at all times have its influence, and may attach to him an importance beyond his merits. But this influence is not so dangerous as to induce a government to interpose and limit the honest accumulation of property by any citizen. And though this wealth may have its influence, it is always limited. It may frequently be in the hands of a benevolent man, and if not of this character, this vast wealth seldom survives the death of the individual proprietor. It is either divided among numerous relations, or squandered by his heir. But not so with a body corporate, extended throughout this vast empire, possessed of a capital of ten millions of dollars, and extending their credit and accommodations to double that sum, notwithstanding their limit to ten millions. It is stated by an advocate for this bank that the stockholders commenced their discounts with about \$625,000, and that upon this sum they discounted to the amount of \$6,000,000 the first ten months after it went into operation. To divide this ten millions or twenty millions of capital in local or State banks, no serious danger could be apprehended, because the stockholders of one institution would be strangers to all the other stockholders; so of the directors of the different local institutions, and consequently there could be no combination between the different banks. But it is otherwise, and the danger is imminent when you by act of the General Government give unity of action, unity of will, and unity of strength to a moneyed aristocracy, vested with a capital of ten millions of dollars, with power to increase their accommodations to twenty millions, and to send their branch banks into the bosom of every State and Territory. This is not all; your revenue bonds to the amount of millions are deposited with this bank for collection, and the public

money deposited in this bank to the amount of millions for safe-keeping. And their notes made payable to the United States the same as gold and silver. Sir, is there no danger in such a monster, fostered by the General Government, and possessing so many advantages by the laws of Congress? Such a bank in its beginning would confine its engagements to the means of payment, but as their credit increases, they engage beyond their means, their vaults are empty, and the institution relies upon its great credit and exclusive privileges. Thus the character of the bank is changed, and it becomes a system of speculation and a political engine to destroy virtuous individuals, or mould the Government to its notions.

I have no knowledge myself about the political workings of this United States' Bank. But if I were to believe the declarations of members on this floor, and complaints from every part of this continent, I must think that this institution has not been silent and indifferent spectators to the reform of the Administration to Republican principles—but they have endeavored to support that party who gave them a charter. I do not, however, introduce this as a conclusive argument against this bank. No, sir, I would equally object to it in the hands of Republicans. It would still be a moneyed aristocracy, too vast and too powerful not to be dangerous to the freedom of the United States. But, without these declarations of political influence exercised by the stockholders and directors of these banks, our own reason would teach us to believe all we have heard of the oppression and partiality of this bank. It is composed of individuals; these individuals have their passions, their feelings, their prejudices, their partialities and their politics, and they will act accordingly. Self-preservation will always induce them to support and keep in power the party who will be most friendly to moneyed aristocracies and their own institution. The influence of this bank is palpable and notorious. We have the evidence from the long roll of petitioners now imploring Congress to renew the charter. If in twenty years this bank is to be the idol of some and the alarm of others—if the solvency of so many individuals depend on it—if ruin and devastation will in the event of its dissolution spread wide in the country—then, sir, it will only require twenty years more to make it stronger than the Government. To induce us to vote for this institution, we have been persuaded, flattered, alarmed, petitioned, and threatened, and we have been amused with the rise and history of the banking system. It originated in Italy, it has travelled through Europe, crossed the British channel to Great Britain, and lastly, it crossed the wide Atlantic to America. And much has been said of the utility of those institutions. Without dwelling upon the utility of banks at present, I could only admit them as a necessary evil, and not dangerous, if left to the control of our State Governments. But the history of those banks which have been quoted, will furnish no argument in favor of a National Bank. We wish no political engine of

a moneyed aristocracy. We wish to rest upon the virtue and will of the people.

It has been stated that Georgia is Republican, notwithstanding this monstrous machine has extended a branch bank to this State—and it is stated that Connecticut is Federal, and has no branch bank of the United States. This does not prove that the bank is not a dangerous engine against the liberties of the people; but it proves that the people of Georgia withstood this dangerous influence and deserve more credit. It is a proof of the virtue of that people. If this institution is so necessary and beneficial, why do not the Representatives of Georgia, who have been blessed with this institution, come forward and advocate a renewal of the charter? But you find the respectable members of Georgia opposing a continuance of this evil in every form. In fact the State of Georgia taxed the paper of this bank, and the State was determined by taxation or legislative prohibition to drive this circulating medium from their territory. But considerations of wisdom induced a postponement of this determination until it should be seen whether the charter would again be renewed in violation of the Constitution, and in defiance of our liberties. My colleague (Mr. McKee,) whose opinions I had been in the habit of considering as my own until this unfortunate question which divides us, has stated that in his opinion the dissolution of this institution would be felt by the citizens of the Western country, and that our surplus hemp would not command as good a price. I differ in opinion from my colleague if he supposes the Western country will feel any great pressure from the dissolution of this bank. I grant the people of Kentucky may not be entirely exempt from some inconveniences common on such an event. But our produce will fall from other very different causes. Interruptions in commerce, stagnation in trade, bankruptcies throughout the commercial part of the United States, arising from the bankruptcies in England, which have occasioned the return of many bills from England protested. These are the causes which produce distress, and will continue to produce it until we are a people less dependent on foreign commerce. But believing as I do on this subject—viewing the effects of this great political moneyed institution with abhorrence, I would not vote for it, let the temporary distress be what it may. I would rather see the present crop of hemp brought to one deposit, which would make a bulk larger than this Capitol, and consumed with a lighted torch and ascend to the heaven in smoke as a bonfire, rather than vote for the passage of this law—and sir, the people I represent would justify my vote. They would bear the loss without a murmur; they would act the part of freemen worthy of freedom; they would magnanimously bear the calamity without complaint if their patriotism required the sacrifice. They are a most worthy people. A virtuous people, an enlightened people, a glorious people. Descendants of this great American family, inheriting that spirit of independence which equally sustained our cause un-



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der defeat and victory upon all the battle grounds of the Revolution. I will not be alarmed out of my vote by clamor, no matter from what quarter it may assail me. I never will be driven from my duty by alarms and fears. I will stand firm to the cause I conceive to be just, and the people will support me; they despise wavering and temporizing.

If you continue this charter of this bank twenty years more, you can never put it down. No, sir, instead of having petitions which would reach from the Speaker to the seat of the members, you would have them packed upon your table until they would intercept my view in addressing you. Yes, sir, they would rise up higher, and implore that goddess of liberty which presides over the deliberations of this House. We are told that this bank is necessary to the collection, the safe-keeping and the transmission of the revenue to different parts of the United States. It is stated that the State banks are strangers to us, and cannot be trusted with the deposit of public money. I am sorry to hear such a sentiment. It has originated from a panic, an alarm, ideal danger. That great and good man the Secretary of the Treasury has told you otherwise, by his report now before me of date 12th of January, in which it appears that of about \$2,400,000, upwards of \$800,000 are deposited in the State banks, \$75,000 of which are deposited in the State Bank of Kentucky, and I should be sorry if it was not as safe there as in the hands of the United States' Bank, in the possession of foreigners. If State banks will not do, let the United States build vaults for the safe-keeping of the revenue.

But, sir, the alarming consequences which must arise from a dissolution of this corporation—It will deprive us of a circulating medium; it will interrupt commerce and produce bankruptcies. It is to produce the distress of farmers and the ruin of merchants; it is to prevent emigration, and it is to shake the foundations of the Government. This picture gives me no alarm. It is the picture of a wild and distempered imagination. If serious injury will be felt by many in the power of this moneyed aristocracy, I feel and sympathize with the sufferings of those who may be needy without any fault of their own; but something is due to posterity; and even in that point of view, I am not willing to entail upon them the baneful effects of a great moneyed corporation with a capital of twenty millions of dollars, extending their arms of power and influence to every part of the United States, and having the destiny of good men within their control, whenever they receive the nod to exercise their giant power. No, sir, I am ready to see and feel the sad crisis which has been described. If we die with less money, we shall live in more honor and enjoy more happiness. I wish to see whether so much depends upon this corporation. If so, it is the greater reason why the poison should be destroyed. Like the strong man we read of in Holy Writ, let us see if the violent death of this corporate body will pull down the pillars of the Constitution, that another Volney may sit upon

the ruins of this capital and mourn the fallen empire of this great and happy Republic.

Mr. SHEFFEY.—Mr. Speaker, it was my intention not to address any observations to you on the subject now before the House, but reasons which I cannot disregard have induced me to request your attention. I am confident, when the importance of the question is considered—a question in which is involved the integrity of a Constitution we all profess to adore, and the prosperity of a country we all profess to love, the House will listen to everything that can be said, not only with patience, but with pleasure.

I have been led to make the remarks which I am about to offer by considerations distinct from the intrinsic merits of the question. In the vote which I shall give, I shall disagree with a majority of my honorable colleagues, whose opinions are entitled to my respect. The sentiments of a great portion of the people of the State which I have the honor in part to represent, so far as they can be collected from the opinions of her Legislature, and my own, do not correspond on this occasion; and I must superadd that no question ever was presented to my mind in the course of my public duty which at first view appeared attended with more difficulty. I have therefore thought it proper to state the reasons of my vote to the House, to enable my country to appreciate them, and my constituents to interpose their corrective should they deem them unsatisfactory. I had hoped that this question would have been discussed, and determined, abstracted from all party considerations; that our attention would have been exclusively directed to the effects of this measure on the community, whose interests are committed to us; and our solicitude employed to keep within the limits prescribed by the Constitution. But we have been invited into a different course. My honorable colleague (Mr. EPPES) told us the other day that we need not to expect that this question would be determined on any other than party principles; that party principles gave birth to the charter of the bank originally, and that that was the first great question which separated the two parties in this country. Was the fact even conceded, the conclusion does not appear to me inevitable that this must now be a party question. At that time it was a matter of speculation and conjecture what means would be "necessary and proper" to give effect to the delegated powers confided to this Government. The light afforded to us by twenty years' experience has banished them, and substituted certainty in their stead. We have now before us the practical operations of the Government, calculated to show the fallacy of reasonings founded on plausible but untried theories. With these means within their power, it does not appear to me that those act inconsistent with their former principles, who now conceive the necessity of a bank as an instrument to carry on the fiscal concerns of the Government, though (unaided by the best of all human guides—experience—) they might have thought different in the infant state of an operation.

But my honorable colleague has committed an error in point of fact in giving the statement to the House that this was originally a party question. I had taken it for granted that the fact was as stated by him; but, on recurring to the Journal of this House for the year 1791, (which I hope I shall be pardoned in receiving as better evidence than his declaration, however implicitly I might rely on him on other occasions,) I find that a considerable portion of the Federal members voted against the incorporation of the bank, and a still greater portion of the Republicans for it; besides, as the measure was then contested on the ground that there was no Constitutional power in Congress to adopt it, which always involves matters of conscience, I cannot submit to the idea that one political party exclusively entertained conscientious scruples when violence was threatened the Constitution. This would be degrading one-half of the American people.

[Mr. EPPES rose to explain: He said he apprehended from the various observations which had been made that he had been misunderstood in what he had said a few days ago. He meant to say that there were from the commencement of the Government two opposite opinions entertained with respect to its powers: One was that they were strictly conformed to the objects delegated; the other was, that there were certain implied powers which the Government might exercise that did not appear on the face of the Constitution; that the latter opinion gave birth to the alien and sedition laws, and the stamp act, and that this was the party principle he meant which gave birth to the bank charter. As to conscience being monopolized by one party he had never entertained any such idea; he knew men of the Federal party who were as conscientious as he was, and as much attached to the welfare of the country.]

Mr. SHEFFEY proceeded: Mr. Speaker, I do not believe that my honorable colleague was actuated by any improper motive in making the declaration he did. During the time I have been associated with him in public life, I have had no cause to believe that he was under any such influence. That the opinions stated by him existed early in this Government, cannot be denied. They are attributable to very obvious causes. On the one hand, those who were the friends of the Constitution were friendly to the exercise of all the legitimate powers confided to the General Government, under the impression that it was necessary to preserve the Union; many indeed suppose that the powers delegated were still too feeble to secure that great object, unless supported by a very extensive and liberal construction. On the other hand, there were those who were apprehensive that the powers of the General Government were of a character calculated to swallow up the State authorities, and subvert the rights of the people. These, after their efforts had been unsuccessful in the conventions of the States, on the adoption of the Constitution, brought with them (with the best intentions)

into the councils of the new Government their solicitude for popular rights and State sovereignty, without sufficiently regarding the importance of the Union, and the means necessary to preserve it; and, while some of their political opponents contended for a construction which produced some very obnoxious measures; they, if success had attended their efforts, would have brought the Union to the feeble state in which the old Confederation had left it, and I hesitate not to declare, by this time, we should have been a divided, distracted, and enslaved people.

Much has been said in the course of this debate about State rights, and the offence which will be given to the States, should this measure be adopted. There is certainly propriety in preserving to the States their legitimate authority, and in manifesting a jealousy whenever it is threatened with any infraction, because the rights of the people are then in jeopardy. But let it not be forgotten that every relaxation on the part of this Government weakens the Union, without which the rights of the people are but an empty name. Sir, he who impairs the powers properly belonging to us, is as much the enemy of the people as he who subverts the State authorities possibly can be; he is as criminal who weakens in the least degree the bonds which unite us, as he who places upon our necks an iron yoke to keep us together.

If we should pursue the course which the observations of some gentlemen seem to recommend, not to adopt the bill before you, because it will give offence to the States, and bring us into collision with them; to what a miserable state must this Government, and consequently this Union, be very speedily brought? It is in the nature of man to thirst for power, and to employ all his means to obtain it. From this spirit the State governments are not exempt, but, on the contrary, we have abundant reason to know that it prevails there in an eminent degree. Let it once be established as a principle not to exercise any particular power, because it is disagreeable to some of the States, and I pledge myself that in a very little time you will not be able to exercise any whatever. You will have to recede step by step as they advance upon you, (which they will be sure to do,) until you possess nothing but the shadow of authority; and this Union, the last and best hope of the friends of liberty, must dissolve in its own weakness. Sir, I fear when that is gone there never will be sufficient patriotism and unanimity, nor a sufficient portion of a conciliating spirit to reunite us in any form of government which, while it secures to us the principles of a free constitution, has sufficient energy to maintain itself. The consequences are easily foreseen. We shall be tossed about, divided, and distracted, until we finally share the destinies of other nations—seek repose from the evils of anarchy in the arms of despotism.

A principle, equally untenable and equally productive of mischief, has been advanced in debate, particularly by the honorable member from New York, (Mr. PORTER:) that no power can be ex-

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exercised by this Government which interferes with the remaining powers of the States. Such for instance is the power of internal taxation. Every cent which we draw from the citizen by virtue of that power, diminishes his ability to pay his taxes to the State of which he is an inhabitant, and consequently narrows the circle of State legislation. And, indeed, cases might be supposed where the necessity of this Government required taxes commensurate with the utmost ability of the people to pay, which in effect would be a total suspension of the powers of the States to lay and collect taxes. Yet can it be pretended that in the amount of public contributions, which it may be necessary to require, we are limited by any other restriction than that which a sound discretion and a due regard to the welfare of the community imposes? The same principle applies to the means which may be necessary to carry the delegated powers into effect; they may be legitimate, though they interfere with the legislation of the States.

Having detained you thus long with the preliminary remarks which I had to offer, permit me now, sir, to lead your attention more directly to the subject before us.

The most important principle involved in this question is, whether the Constitution has delegated to us the power to legislate upon this subject in the manner proposed. It is admitted on all sides that unless that power exists, let the inconveniences and even calamities which will follow the rejection of this bill be what they may, the high duty which we owe to the country not to transcend the limits prescribed to us, is superior to every other, and must imperiously lead us to that result. In order, therefore, to approach the minor question of expediency, it is necessary to ascertain whether by a rational and unbiassed construction of the Constitution this power is fairly apparent, either as directly or indirectly given, either as a power original and express, or derivative and implied.

It has never been contended that the Constitution expressly delegates the power to create banks; but that such institutions may be established as instrumental in giving effect to some one or more of the delegated powers. In the course of the observations which I propose to submit on this part of the subject, I shall attempt to prove that Congress are not restricted in the means to execute the delegated powers, except so far as the Constitution expressly restricts them, but that they may employ any which they deem "necessary and proper" without violating the Constitution.

To enable us to give correct constructions to the acts of individuals and of public bodies, it frequently becomes important that we should consider the time in which they happened, and the circumstances under which the persons concerned acted. In legislation and jurisprudence this is a very general maxim, and seems to me peculiarly proper to be called in aid on the present occasion. It will afford us the best ideas of the evils under which this country labored when

the Constitution, under whose authority we now act, was proposed and adopted, and consequently of the extent of the relief which that remedy was intended to give.

Let us then see what was the situation of this country at that period of our history, and what were the causes which led to that great event. It was not the want of a General Government that induced the people of the United States to seek security in the present Constitution, but the want of one with sufficient powers for the purposes of union. That want of efficiency which characterized the Confederation, emphatically styled "a rope of sand," was not the effect of the limited subjects confided to the deliberations of Congress, but the limited means to carry their determinations into effect. On recurring to that instrument it will be seen, as has been stated by an honorable member from Kentucky, (Mr. JOHNSON,) that the subjects embraced are little short of those vested in this Government. Congress was clothed with all the great attributes of sovereignty. They had the power to determine on peace or war; to regulate commerce (through the medium of commercial treaties) with foreign nations; to regulate trade with the Indian tribes; to grant letters of marque and reprisal; to coin money and regulate the value thereof; to raise armies and navies; to borrow money on the credit of the United States; and many other powers of minor importance. Had they had the means to carry their resolutions into effect through the agency of their own Executive and Judicial authorities, and could their acts have reached the people, instead of being dependent for their execution on the will of the States, I venture to say that this Constitution would not have been proposed. It is true that the organization of the Government under the Confederation was greatly defective; yet that was not the cause of its dissolution. It was the imbecility arising from the want of means in the old Congress that assembled the General Convention. It was that which produced the Constitution of the United States, the primary object of which, and of the people who adopted it, was to place into the hands of the new Government means commensurate with the due execution of all the powers confided to it. Is it rational therefore to suppose that under this impulse, under the pressure of the evil which every one felt, and the cause of which every one knew, those who framed and adopted this instrument could have intended that we should be circumscribed in the means deemed necessary to give effect to our measures or (as some gentlemen strangely suppose) be dependent on the States for them? Is it in the least probable that the men selected for their wisdom, perfectly acquainted with the progress of man in every age; who foresaw the changes which the state of society must undergo in this country from the increase of population, commerce, and the arts, could act so absurdly, as to prescribe a certain set of means to carry on the operations of a Government intended not only for the present but for future generations? There are indeed some express limita-

tions which the circumstances of the times and the jealousies of the parties produced, but they being expressly stated proves that the means not interdicted remain entirely at our discretion.

When we examine the various parts of the Constitution with a view to this question, we shall see many reasons in support of the principle for which I contend. The last clause of the 8th section of the first article invests Congress with the "power to make all laws which shall be necessary and proper to carry into effect the delegated powers, and all powers vested in the Government of the United States or in any department or officer thereof." To whom is confided the right to judge what shall be "necessary and proper?" I presume it will be admitted that this right is exclusively inherent in Congress. And if Congress alone have the right to judge of the necessity and propriety of the means, is it not absurd to say that they must judge rightly or they have no right to judge at all? I have always supposed, when a subject is within the legitimate authority of any men or body of men, an erroneous decision upon such subject does not prove a want of jurisdiction, but of correct judgment. On this, like on every other subject, there will be a variety of opinions as to what is "necessary and proper." The majority must determine that question. And, although there may in this, as in every other case, be flagrant abuses of power, for which we are responsible, there never can be any usurpation. It must always be a question of sound discretion, guided by the interests of the Union, and not a question of power; unless, indeed, we should fall in with the fancy of my honorable colleague (Mr. BURWELL) who opened this debate, and interpolate the word "absolutely," so that he could adopt no means but such as are "absolutely necessary," which would leave us, as has been ably demonstrated by the honorable member from Maryland, (Mr. KEY,) without any power at all.

Every subject which is presented to us within the acknowledged sphere of our authority, involves the question whether it is "necessary and proper." If a tax be proposed, which (as the Constitution is expounded by some, and which I believe to be correct) can only be laid "to pay the debts and provide for the common defence and general welfare," it may be objected that it is unconstitutional, because these objects may be provided for without any tax, or without the one proposed. But there can be no doubt that this would be exclusively a question of expediency and discretion.

The Constitution of the United States has universally been considered as a grant of particular and not of general powers. Those powers are the primary or expressly delegated, and the derivative or implied. The character of the instrument precluded the necessity of a "bill of rights," because the question never could arise, what was reserved, but what was granted. The framers of the Constitution were well aware of this, and so were the people who adopted it. It was therefore fairly to be inferred, that whenever there appears a limitation or restriction in the shape of a negative

clause, Congress might have exercised the power interdicted, had such clause not been made part of the instrument. By examining this part of the subject, we will be able to determine how far it was supposed derivative or implied powers would extend when not restricted.

The first clause of the 9th section of the first article provides, that "the migration or importation of such persons, as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

Among the delegated powers, the right to prohibit the migration or importation of persons into the States, is nowhere to be seen; but it was justly conceived that it was incidental to the power "to regulate commerce with foreign nations."

The second clause of the same section restricts the suspension of the writ of *habeas corpus* to certain circumstances. There is no express power given to any department to grant it in any instance. But Congress have the power to organize the judicial courts, to which is incident the power to regulate writs and other processes. And as this celebrated writ was deemed the birth-right of the people of the States under the State authorities, as the instrument to release them from arbitrary imprisonments, it was taken for granted that its benefits would be extended to them under this Government, and it was conceived necessary to restrict the discretion of Congress in suspending its salutary operations.

In the third clause of the same section, Congress are prohibited from passing any bill of attainder or *ex post facto* law. Congress are no where directly authorized thus to interfere with the ordinary course of justice, so as to subject an individual to the consequence of an attainder at their own mere will, without a trial; or to make an innocent act criminal, by a posterior declaration. But they have the power to define and punish certain offences, which would have implied the power to do it in any manner they might have thought proper—hence it became necessary to interpose this restriction.

The next three clauses contain restrictions on the power to lay and collect taxes and appropriate their proceeds, and show that it was considered as unlimited, unless expressly restricted.

The last clause in the same section gives us a more comprehensive idea of the extent to which the framers of the Constitution conceived the implied powers of this Government might be exercised, if not restricted. It provides, "that no title of nobility shall be granted by the United States." The whole context of the Constitution does not afford the most distant hint that the creation of an aristocracy is among the delegated powers. And yet the interdiction to create such a body—the very name of which is so justly abhorrent in this country—was deemed necessary. And why? Because this Government has the power to raise and support armies and navies. It has various important concerns committed to it, in which eminent men may render great and meritorious

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services. And as it would not have been restricted in rewarding them according to its pleasure, it might, in conformity with the usage of other nations, have conferred distinctions upon them; which, though they could give no exclusive right to office, might be attended with emolument and honor.

If the doctrines which have been advanced upon this floor during the present debate are truly genuine and Constitutional, then does the history of this country, for the last twenty years, present a spectacle the most alarming; then have the operations of our Government been nothing but an uninterrupted scene of usurpation. From its organization, under the auspices of the first of men and of patriots, until the present moment, violation has succeeded violation; the Constitution has been trodden under foot by all parties, and is no longer worth preserving. Sir, I will go further. I venture to say, that if those doctrines are adhered to and acted upon in every instance, this Government is at an end. It cannot adopt the simplest measures necessary for its own existence, and for the welfare of this people, without resorting to means not expressly delegated. If this critical construction prevails, we have no right to disband one single man from the Army or Navy. Congress are expressly authorized to raise and support them; but the power to lessen or destroy them, is not to be seen on the face of the Constitution. We are invested with the power to regulate commerce with foreign nations; but where is the authority to suspend or annihilate it by an embargo or non-intercourse, unless it is implied?

To those who are not carried away by these doctrines, pregnant with so much mischief to this community, it is well worth the trouble to examine the operations of the Government under every Administration. They will be able to ascertain the opinions of men of every party manifested by their public acts, as to the extent of the means confided to us to give effect to the delegated powers. And this inquiry will, I am persuaded, tend to confirm the construction which I have attempted to give to the Constitution.

By the Constitution, a judicial department, with limited jurisdiction, is established, to give effect to the due administration of justice, so far as it is confided to the Government of the United States. Congress have made provision for the punishment of perjury, bribery, stealing or falsifying records, rescue, opposition to the execution of judicial process, and other offences. It does not appear that the particular definition to these crimes, and the punishment designated, are "absolutely necessary." Some other means perhaps more conducive to the end might have been employed; and, indeed, it might be said, that as Congress, by the Constitution, are authorized to "define and punish" certain crimes, it implied a negative to define and punish any other, and consequently those just mentioned. But can it be necessary to waste the time, or insult the good sense of this House, to attempt to prove that in

these cases Congress exercised their Constitutional power only?

The power to borrow money on the credit of the United States has been exercised by authorizing the Commissioners of the Sinking Fund to issue certificates pledging the public faith to pay so much money as therein stated, to be sold in the market for what they could bring.

To give effect to the revenue system of the United States, Congress have employed means, which, instead of appearing "absolutely necessary," have a very remote connexion with the object; besides the many penalties and forfeitures which are created, the citizen is subjected to the more arbitrary searches and seizures dependent upon the mere will of the collector; yet, the authority to do this has never been questioned. Under the power to regulate commerce, Congress have erected light-houses, beacons, and buoys; they have established rules for the regulation and government of seamen in the merchant service; they have adopted measures for their protection on the high seas, and in foreign countries; they have imposed a tax to be exacted from them, even when abroad, to raise a fund for the sick and disabled; they have established in this country, within the jurisdiction of the State authorities, and without their consent, hospitals for their reception and support. How remotely connected are all these things with the primary power "to regulate commerce?" Are they "absolutely necessary" to give effect to that power? Or, can it be pretended that the erection of an hospital is more immediately connected with the regulation of commerce than a bank is with the various fiscal operations of the Government? After having gone thus far, let me ask every rational man, could Congress not incorporate the trustees of such an hospital, with a view to give them individuality, the better to enable them to preserve the funds, and administer the concerns of the institution? Unless there is something magical in the word "corporation," it appears to me there can be no doubt on the subject.

That Congress have the right to create corporations, as instrumental to effect objects confided to them, seems to me susceptible of the clearest demonstration. For example: the power "to regulate commerce" includes the power to "promote it by all possible means." Suppose a new branch of commerce should rise into view, which promised great national advantages, but its commencement was surrounded with difficulties, and required resources to which individual enterprise and capital were incompetent, will it be contended that the power which erected hospitals to nurse seamen, because it may have a favorable effect on commerce, cannot incorporate a company with certain privileges, so that while the means of many are united, they can act as one in promoting the same object? As to monopolies, of which much has been said, though I am not a friend to them, yet circumstances may exist in which the interest of the community will be promoted in granting some, if prudently regulated; and, therefore, the power ought to exist. Under

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the power to regulate trade with the Indian tribes, Congress have adopted a system which, though not a monopoly in name, is one in reality. They have established trading-houses on their own account, and, under the severest penalties, prohibited every person from trading with the Indians without a license from the public superintendent. What is this but a monopoly, an exclusive privilege, vested in the Government and the persons licensed? And in what do these licenses differ in effect from the privileges granted by the incorporation of a commercial company?

By the laws establishing post offices and post roads, various offences have been created, and severe punishment directed, affecting those not in the service of the Government; persons have been exempted from serving in the militia and on juries, who, by the laws of the States, are expressly subject to that service; this is a direct interference with the State authorities, yet its constitutionality has never been questioned.

The Constitution empowers Congress "to declare war," but no express authority is given to preserve peace; yet, can it be doubted that the power to effect that object is implied? With a view to it Congress have passed laws making it criminal to set on foot any enterprise against any foreign nation with whom the United States are in a state of amity, or to hunt upon the lands belonging to the Indian tribes.

Congress have power to call out the militia to repel invasions. An invasion, I understand to mean a military force actually in our territory; yet an authority has been given to the President to call forth the militia in case there shall "be imminent danger of invasion," with a view to prevent it.

The last instance which I shall give, showing the extent to which Congress have conceived their powers reached, is the purchase of the public library. I would ask the sticklers for express powers, where they find the authority for this act? Sir, taking a detached view of the subject, it might be said that we have the same right to purchase houses for our accommodation. The act can only be justified by reasonings apparently remote from the object. To us are committed the great concerns of this nation; it is our duty to be well informed upon every subject that comes before us; in order therefore to be able to get all requisite information, we think a library necessary as one of the means. This course of argument at once proves everything for which I contend.

Such, sir, has been the uniform practical construction of the powers confided to this Government by men of every political description. Sir, the principles, upon which the constitutionality of this question rests, have not only been recognised in every shape, but the measure itself has received the sanction of acquiescence, if not of approbation, for twenty years. Although I do not feel precluded from thinking and acting for myself, yet, fallible as I know myself to be, I am induced to have great respect for the acts of eminent men, whose wisdom and patriotism it would be vain in me to pretend to rival. And believing,

as I do, that among the greatest evils which attend Republics, are the instability of public councils, and the want of character and consistency in public measures, I feel it a portion of my duty to entertain some veneration for the acts of my predecessors, supported by time; at least so far as not to dissent from them, unless they appear to me palpably improper.

When the bank was incorporated, the people of the United States with one consent acquiesced; not a single murmur was heard; not a single petition was laid upon your table alleging its unconstitutionality and praying its repeal? Was the patriotism of the community then asleep? Were they less sensible then of the necessity of preserving the great charter of their rights free from violation, or less acute in their perception of its infraction than we are now? Was it left for the Argus eyes of the present generation to discover the deadly powers of this hydra; and to their prowess to rise and strangle it? Sir, I should reason differently. Believing that there was as much intelligence, as much vigilance and patriotism, in the country then as there is now, I am inclined to think that had there been real cause of alarm, it would, according to the usual course of things, have been manifested when the subject was new; and when the public attention was immediately directed to it.

Since the establishment of the bank several laws have passed for the punishment of frauds in counterfeiting their notes; one of them under the late Administration. If the incorporation act was unconstitutional, could any person be punished for counterfeiting the notes of the bank? A person accused must be indicted for having made or counterfeited a note or notes purporting to be the act of the president and directors of the bank. If the law is unconstitutional, then in legal construction there are no such persons; and as well might the accused be convicted of forging a note on some fictitious person, as the note of a bank when none such existed. How has it happened that in all the trials which have taken place, this ingenious discovery has never been made? The counsel, always sufficiently vigilant in the cause in which they are engaged, have never pretended to question the legal existence of the bank; involved in the constitutionality of the incorporation act. The courts, composed of the most enlightened men, and of different political parties, sworn to support the Constitution, have consigned the reputations of men to lasting disgrace, and incarcerated them within the confines of loathsome prisons, where they have been suffered to remain for years; when a single breath from the Executive would have released them, which it was his bounden duty to do, had the act been considered as unconstitutional.

Many of the public acts of the Government might be cited to prove the frequent and uniform recognition of the validity of the incorporation; but I will not fatigue the House with mentioning but one other. As recently as the extra session in 1809, you authorized the Commissioners of the Sinking Fund to borrow money from the Bank of

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the United States on the credit of the Government. If the incorporation is invalid, then there is no corporate capacity in the president and directors, and they have no power to make a contract to loan the money of the stockholders.

The necessity of a bank to carry on the operations of the Government seems to have been admitted by all who have spoken in opposition to the bill on your table. But they have insisted that a bank created by the United States is not necessary, because the State banks will afford us the same conveniences. This admission, in my humble conception, completely surrenders the question. If a bank is necessary, as instrumental to give effect to our fiscal concerns, ought it not to be completely under our direction? Is the instrument to govern the hand that employs it, or the hand the instrument? The State banks are under the control of the State authorities, who may permit them to accommodate us or not, as they please. Can it be seriously conceived that this is the kind of Government the people intended to establish for the great concerns of this Union, which is to be dependent on the States for the execution of its power? It might as well be contended that we have no right to appoint the collectors of our revenue, because those appointed by the States to collect their taxes would answer all the purposes necessary.

But the honorable member from New York (Mr. PORTER) has said that there is nothing new in the doctrine that we should be dependent on the States for the execution of our measures, because the same principle appears on the face of the Constitution, that the agency of the States is requisite in the elections of Senators, Representatives, and Electors. Was this argument even apposite, I should suppose it a correct answer to say, that the intention of those who instituted the Government was to confine the agency of the States to the case expressly stated; and the present not being one of them, our own discretion was alone to be consulted and our means employed. But the argument has no connexion with the subject. We are dependent upon the States and the people for the organization of the Government; but, whenever it is organized, we are dependent upon our own means to give effect to our powers. As well might the honorable member have contended that we are dependent on the sheriffs of Virginia, who hold the elections and make the returns, and without whose agency no representation could exist from that State on this floor.

The argument which admits the necessity of a bank for the purposes of this Government, but which contests our right to create one, because that necessity is supplied by the State institutions, leads to the very extraordinary conclusion, that what is unconstitutional to-day may be constitutional to-morrow. If the States should abolish their banks, or prohibit them from accommodating us, we would have the right to erect them ourselves; but so long as that is not the case we have not the power. Can anything show in a stronger light the untenable position which gentlemen occupy, than the necessity which compels

them to advance arguments which will make this Constitution (intended as the strong bond of Union, the same at all times and under all circumstances) a flexible instrument to be contracted or extended; to be feeble or strong, as the caprice of State power may direct? Call this what you will, sir, it is in reality nothing more than the old debilitated, miserable system of the Confederation. That a bank is necessary for the administration of the national finances is not only admitted by the opponents of this bill, but tested and confirmed by the experience of other countries as well as our own. Does the Secretary of the Treasury in his reports on this subject propose to manage our money concerns without the aid of any bank, in the event of a dissolution of the Bank of the United States? Such an idea has not entered into his imagination, or that of any other man who has the most distant pretensions to any practical knowledge on the subject. Sir, it is the instrumentality of the State banks that must and is contemplated to be resorted to in that event; and the Secretary speaks and writes of the subject in that way. That a bank is "absolutely necessary" I will not pretend to say. There is scarcely anything effected by human power where there is a physical impossibility to do it but in one way, or but by a single mean. The necessity of which I speak is this, that it is more convenient, more prompt, more certain, and less expensive than any system that can be substituted, to collect our revenue; to safely keep our money; to pay our debts; to support our Armies and Navies; and in fact, to give effect to every operation in which money is concerned. Sir, even the inconvenience arising from the expense and hazard of transmitting large sums of money to distant parts of the Union, when the military or other concerns of the Government require it, is very considerable; through the agency of the bank it is done without one single cent expense, and without any risk to the United States. The instrumentality of a bank was deemed proper at this time, when the fiscal concerns of this Government were comparatively but very limited. Congress under the Confederation found it necessary to have the aid of such an institution, notwithstanding they had not the power to "lay and collect taxes," and that necessity gave birth to the Bank of North America.

From the principles for which I contend and the uniform practice of the Government, this inference is deducible; that wherever a power is given to do an act or to legislate upon a subject, all the means, whether remote or direct, to accomplish the object in any manner deemed best, accompany the grant. If this be correct, have not Congress the right, under the power to "borrow money," to adopt precautionary measures, so that a capacity to lend may exist, when the necessity to borrow requires it? "To borrow" sums of sufficient magnitude for the exigencies of the Government, in a country where there is very little capital free from employment in the ordinary pursuits of life, may be very difficult, unless the small surplusses scattered through every

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part can be united. This tendency banking institutions have in an eminent degree. Under the power to "regulate commerce," Congress have cherished and protected those whose labor contributed to its success. Under the power to regulate trade with the Indian tribes, they have furnished all the means to carry on that trade; and why not, under the power to "borrow money," incorporate a bank, which, while it creates the ability on the part of the institution to loan, by uniting the funds of many, may be so modified, as is the bill on your table, as to make it a condition that shall do so, when the necessities of the Government require it?

Sir, of the effects which the dissolution of the Bank of the United States will have on the community, I am perhaps incapable of forming a correct judgment, as I do not profess to have any very extensive practical knowledge of banking. But it appears to me, without resorting to any artificial means, judging only by the rules of common sense, that they must be very serious, and even calamitous. In a society like ours, comparatively yet in its infant state, I presume it cannot be asserted, with the appearance of truth, that there is a greater floating capital, or a greater portion of circulating medium than its necessities require. Withdrawing then from public use fifteen millions of dollars, at least one third of the whole money capital of the United States, (which it matters not whether it is in specie, or paper answering the purposes of specie) must be felt as a very great inconvenience. The products of the country must diminish in price, because their value according to the present standard will be much greater than the amount of money to purchase. One of two things seems to me inevitable, either that a great portion of the domestic produce will be inactive on our hands, or that the whole will sink in value to a level with the amount of money to purchase.

The merchants will more immediately feel the baneful effects of the dissolution of the bank. Their situation is at this time peculiarly embarrassing. Their property to a very large amount has been confiscated, sequestered, or detained for adjudication, in Europe, in consequence of the nefarious measures adopted by foreign Powers against our commerce; and a great portion is lying inactive in their warehouses for the want of a safe market to which to send it. Having failed in receiving their expected means by remittances from abroad, to enable them to comply with their engagements, they require more than ever the accommodation which banks can only afford. Disappointed in that, ruin must stare them in the face, though they may be abundantly solvent; a general if not a universal bankruptcy will ensue, which, while it falls immediately on the mercantile classes, ultimately affects every department of society. For nothing is more obvious (I wish it was better understood) than that the affairs of this community are so closely interwoven that no material injury can be done to any one great national pursuit, without finally affecting every other. From this impending ruin some

may fly for shelter to the money capitalists, who reserve their means to prey on the misfortunes and calamities of their country, and borrow at exorbitant premiums; but though this may parry the evil, it is calculated to make it the more certain.

But we are told that the wants of the merchants can and will be supplied by the other banks. It may be so; but reasoning as I must without the aid of the mysterious elements of logic (for they are perfectly so to me) resorted to by those who pretend to practical knowledge, guided only by the rules of common sense, I should come to a different conclusion. I should suppose that in the present difficult and embarrassed state of our commerce, the whole banking capital in the United States is scarcely competent to supply the necessities of the country; that withdrawing more than one third must leave a great deficiency, which will not only have the effect of leaving those, accustomed to be accommodated by the Bank of the United States and its branches, without any accommodation, but tend to diminish the discounts of the other banks. Sir, this result is very obvious. The great capital, large deposits, extensive credit, and circulation of its paper, enabled the Bank of the United States and its branches from time to time, in the usual course of business, to have considerable claims on the other banks, as balances arising from the intercourse between them, which in ordinary times under the influence of an accommodating spirit are either not rigorously exacted, or received in paper. But when the affairs of this institution are to be finally closed, those balances must be paid in specie, and the specie of the other banks will of course diminish; they must then either curtail their discounts, or hazard their credit by leaving a surplus of paper in circulation beyond the usual means to redeem it; even the suspicion of which prudent and experienced men will never encounter.

Against the Bank of the United States prejudices have been excited and clamors raised in every shape and in every tone. It has been said to be a deadly viper lodged in our bosom, which at some time, if suffered to live, will sting us to the heart; fancy has converted it into a political engine which will subvert our liberties; an association of men who will prostrate our Government. Sir, had I nothing to direct but my imagination, I might perhaps be drawn into this vortex of terror; but there is a much safer guide at hand. These dreadful apprehensions have already been exposed, by the honorable member from Kentucky (Mr. McKee) who so eloquently the other day referred to the experience of the country as a conclusive answer. It is the best test of the effect of an institution. I would not give one single year's experience for all the speculations of all the philosophers and politicians that ever existed; by its salutary precepts let the present question be judged. It will be seen that this pretended viper is a harmless animal; that our liberties and our Government have been preserved, and our prosperity has increased amidst the operations of this fancied dreadful engine. Sir, it will be further



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seen that the bank, with all its influence in favor of the men formerly in power, could not avert the change which took place in the public councils of this country. After all this, let me ask every rational man what danger is to be apprehended from their opposition to the Government, when their aid and their friendship produced so little effect? The fact is, that practically the bank must always be friendly to the Government, whatever may be the abstract opinions of the individuals composing the stockholders.

Some of the arguments (or rather assertions) which have been uttered on this floor, are strangely inconsistent. At one time it is said that the capital of this bank is mostly the property of foreign stockholders, who thus have improper influence in this country, which ought to be destroyed by putting down the bank. When it is stated by the friends of this bill that it will be a great public inconvenience that upwards of seven millions of dollars in specie should be taken out of the country so suddenly, the same gentlemen tell us that that will not be the case, for that the foreign stockholders will vest their money in other banks in the United States. Is this the way by which we are to get clear of foreign influence, by driving it from its present confined situation, that it may be infused into every concern in this country, and corrupt every part of the body politic? Foreign stockholders either have undue and improper influence injurious to our welfare, or they have not. If not, why this clamor, unsupported by any real danger? If they have, is it not augmenting the evil by extending the circle of its operations?

So much has been said about the improper influence which foreigners have in our country on account of their being stockholders of this bank, that it merits a more minute inquiry; directed not by prejudice, but by common sense, and governed not by assertion but by fact. On looking into the act incorporating the bank, I discover that no person but a citizen of the United States can be a director; that foreign stockholders have no right to vote, either in person or by proxy, for directors. Now, I would ask, without any of those privileges, how is this foreign influence put in motion? Through what channel is it communicated? Sir, the influence is the other way, if any. These men have their interest committed to the care and control of our Government and our citizens, and so long as men feel an affection for their interest, so long something like influence arising from this circumstance may be expected.

The mere employment of foreign capital, instead of being an injury, is a real benefit to the country. It implies a want of a domestic capital coextensive with our necessities, as it is one of the first axioms in political economy, that sufficiently extensive domestic means will exclude the employment of foreign; and, therefore, the existence of a foreign, is proof of the deficiency of the domestic capital. If this idea is correct, the beneficial effects are alone apparent. The foreign capitalist lends us his money, for which

he draws eight per cent. as a dividend, which yields us twelve or fifteen; and the tendency it has to promote the wealth of the nation may be exemplified by supposing the case of an individual, who borrows money at six per cent., which, by applying its use to proper objects, yields him twelve. It would make no difference to such an individual whether the person loaning was a foreigner or a citizen; he had furnished the means which made him rich, while without them he might have remained poor. So it is with this nation; we have grown wealthy from a comparatively poor state; in this change the employment of foreign capital has had great agency.

It has been alleged against this bank that it confines its selection of directors to one political party, as well as its accommodations. As to the political complexion of those who manage the concerns of this institution, I have no personal knowledge; the fact may be as stated. Without approving of this course, which I by no means do, I conceive that, in all money associations, those interested may safely be trusted to manage "their own affairs in their own way." The statement that the bank confines its benefits to its own party, if true, certainly shows intolerance, and would be with me highly objectionable. But I have great reasons to doubt the fact. I have been told by one of the directors of the office of discount and deposit at Baltimore, that more than one-half of the amount of discounts was granted there to persons of opposite political sentiments from the direction, and as nothing but suspicion and surmise have been offered in support of the imputation, I am induced to believe that, as it respects other places, it is equally unfounded. These things, however, if even true, would have no effect on my vote on the present question; for, if the objections are valid, they affect not the principles of the institution, but its management.

I have detained you longer than I intended. My apology for occupying so much of your time must be found in the great interest which this question is calculated to excite; a question on which I confess my opinion heretofore inclined the other way; it was, however, like many opinions, formed without a thorough investigation of the object.

Permit me, in conclusion, once more to direct your attention to a subject of the first importance, on which I have already made some remarks. I mean the partialities which have been manifested for State rights and State pretensions. This subject has been presented to us in the most lively and interesting colors. To pass the bill on your table has been deprecated as leading to collisions with the State authorities—to discord and civil war. Sir, if we have arrived at that point when it becomes necessary to inquire what will please the States, and what acts they will permit, instead of what is right; then, indeed, are our proceedings (and even is our existence) a miserable mockery. If we cannot be permitted to think for ourselves, it is much better to close our doors and go home. If we cannot act inde-

pendently, but only in the character of humble instruments, to register the will of others, let us not act at all. I conceive it a duty equally imperious, from which I have taken a solemn oath not to depart, to oppose the encroachments of the States, as I do not wish to encroach on them. It is as essential that we should exercise the powers confided to us, uninfluenced by them, as it is that they should exercise those reserved to them, without being influenced by us.

If it is seriously wished that this Government and this Union should be preserved, it is time that the spirit of encroachment and control assumed by some of the States should be discouraged. If it is suffered to gain strength by our compliance or acquiescence, it will ultimately subvert that liberty and independence purchased by the blood of our best patriots. Here is, indeed, a viper, much more deadly than the one fancied by the honorable member from New York, (Mr. PORTER,) which, if you do not expel it from your bosom, will surely sting you to the heart—sting you to death. The experience of the two or three last years sanctions the apprehension that the seeds of disunion will be sown by the State authorities. There is no well-grounded fear that any encroachments by us on the States can ever be successful; they have many means to resist them; they who administer the State governments are comparatively numerous and dispersed through every part of the community; hence, they will always be able to collect to themselves and to their measures a greater portion of popularity than we have in our power. The distance of many parts from the operations of this Government, and the nature of our powers, create jealousy. If to these causes are added fear and imbecility on our part, the bonds which unite us must become every day more enfeebled, until this Union shall be destroyed. A Union in which is involved everything dear to freemen, and which I had fondly hoped would endure to the end of time.

The House adjourned without taking a question on the motion.

#### WEDNESDAY, January 23.

Another member, to wit: from Virginia, JOHN RANDOLPH, appeared, and took his seat.

Mr. EPPES, from the Committee of Ways and Means, presented a bill to amend an act, entitled "An act to regulate and fix the compensation of clerks, and to regulate the laying out certain public roads, and for other purposes;" which was read twice and committed to a Committee of the Whole to-morrow.

Mr. MORROW, from the Committee on the Public Lands, made a report on the memorial of the Legislature of the Indiana Territory, referred on the seventh instant; which was read, and the resolution therein contained concurred in by the House, as follows:

*Resolved*, That provision ought to be made, by law, for the sale of four quarter sections of land in the Indiana Territory to the Commis-

sioners appointed to fix the permanent seat of Government therefor, in trust, for the use of the said Territory, at the same price for which other public lands are sold.

*Ordered*, That the Committee on the Public Lands do prepare and bring in a bill pursuant to the said resolution.

Mr. MORROW, from the same committee, also made a report on another petition of the Legislature of the Indiana Territory, referred on the twenty-first instant; which was read, and the resolution therein contained concurred in by the House, as follows:

*Resolved*, That the prayer of the petitioners ought not to be granted.

On motion of Mr. McKEE,

*Ordered*, That the memorial of William Lambert, of Virginia, presented the twenty-seventh of December, 1809, be referred to a select committee.

Messrs. McKEE, GARDENIER, TURNER, MITCHILL, and QUINCY, were appointed the said committee.

Mr. ROOT, from the Committee of Claims, presented a bill for the relief of Lieutenant Colonel William Dent Beale; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. McKIM also presented a petition of sundry mechanics, manufacturers, and traders, of Baltimore, praying the renewal of the United States' Bank charter; which was ordered to lie on the table.

The bill from the Senate, entitled "An act concerning the communication, by water, along the Northern confines of the United States, and for other purposes," was read twice, and committed to a Committee of the Whole on Tuesday next.

The bill from the Senate, entitled "An act to incorporate the Union Bank of Georgetown," was read twice, and committed to the Committee of the Whole on the bill concerning the Bank of Alexandria.

Mr. MITCHILL offered to the House of Representatives the report of the select committee, to whom was referred, on the 19th January, 1811, the memorial of John Bioren, W. John Duane, and R. C. Weightman:

"The memorialists inform Congress that they meditate a new, methodical, and corrected edition of our national law, consisting of, 1. All the public acts now in force. 2. The decisions of the national courts thereon. 3. Treaties and conventions with foreign nations and the Indian tribes. 4. Titles of all the statutes repealed, obsolete, and expired. 5. More explicit marginal notes and references. 6. Particular and general indexes to the laws. 7. A separate index to the matter contained in the notes. The whole to be comprised in five volumes royal octavo.

"For the completion of this arduous undertaking, they propose to employ the best editorial and professional means.

"In considering the present imperfect condition of our statute book, it is pleasing to learn that an improved edition is meditated. By the sale of the volumes, it may be conceived that the publishers will be

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sufficiently rewarded, in the ordinary way of business. But it is also believed, that it will be expedient to furnish the public offices, at least to a certain extent, with these improved copies. For the purpose of receiving this advantage, and of extending, at the same time, a portion of the public patronage to the undertaking, the committee recommend the adoption of the following resolution:

*“Resolved,* That the Secretary of State be authorized to subscribe, for and in behalf of the United States, for — copies of Bioren, Duane, and Weightman's edition of the statutes, treaties, and conventions: *Provided,* The same shall be executed in a correct and faithful manner, and in a form and of a price which he shall approve: and that Congress will, by law, provide for the payment of the same.”

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The House resumed the consideration of the unfinished business. The motion for indefinite postponement still under consideration.

MR. CRAWFORD.—Mr. Speaker, a solemn impression of the duty which I owe to the public, and more particularly to that portion which I more immediately represent, can alone induce me, awkwardly circumstanced as I am from habit, to come forward on the present occasion; or support me under the embarrassment I feel, in presuming for the first time to deliver my sentiments on a question of great national importance before a deliberative assembly. The subject having been already very amply examined, I shall confine my remarks to a very few of the most prominent principles connected with the bill. In so doing, I shall manifest my inclination rather than my ability to perform my duty. Indeed, after the eloquent and conclusive argument of the gentleman from New York, (Mr. PORTER,) on the constitutionality of the bill for the renewal of the charter of the United States' Bank, any farther attempt to elucidate that part of the subject may appear equally unnecessary and impertinent. But as some very partial and indirect attempts have been made to set aside his argument, I request your indulgence, while I endeavor to investigate the positions relied on by his antagonists as a means of palming this counterfeit again upon the nation for twenty years longer. If, in this discussion, I depart from the usual form of addressing you, by giving it somewhat of a colloquial form, I must rely upon the liberality of the House for indulging so unusual a claim upon their attention.

As a Representative of the people, then, I assume what has been called an inclusive power to establish a bank, as incidental to the power granted to lay and collect taxes, duties, imposts, and excises, by the Constitution, in section 8th, article 1st, as incontrovertible. In granting this power, it necessarily follows, that I possess all the means necessary to carry such power into effect. It is left to my discretion to employ the best means which offer for that purpose. This opinion is supported by article seventeenth of the same section, which empowers me to make all laws which shall be necessary and proper for carrying into execution the foregoing powers,

and all other powers vested by this Constitution in the Government of the United States, or in any department thereof. If, therefore, I consider a bank as *necessary* and *proper* to carry into effect the power to lay and collect taxes, it thence becomes a power growing out of Constitutional authority, and it is my duty to carry it into execution.

Here I am interrupted by my constituent, who objects, that I have failed in the establishment of my premises, and in proving that a bank is the most suitable means to accomplish the end in view. That many other measures more adequate present themselves to his mind; and if taxes may be collected by safer and better means, banks become, agreeably to your own doctrine, unnecessary, and therefore unconstitutional.

This objection I endeavor to surmount, by alleging that banks, by furnishing money, provide the means of purchasing the fruits of my industry; and thus, by bringing more competitors into the market, I am enabled to dispose of my productions with greater certainty, and at a better price. Hence, I am qualified to comply with the demands of Government, without seriously suffering from the pressure occasioned by such demand. Banks, therefore, affording more convenient means of paying taxes, become necessary and proper to their collection, and are therefore Constitutional.

Here, again, my constituent objects, that those who hold bank paper will not part with it without adequate value, in produce or other property. If it should so happen that there shall be little or no demand for such produce, or property, the paper holder will either refuse to exchange his paper therefor, or reduce the price in proportion to the unsaleable or perishable nature of the commodities offered. Nay, having, by his fictitious representative, nearly banished gold and silver from the market, he may feel disposed to take an undue advantage of this withdrawn competition; and thus farther diminish or destroy the capacity to comply with the public demands. Banks, therefore, afford only a problematical resource on which to rely for the payment of taxes. They are themselves the effect, and not the cause, of increased commercial prosperity. The consumption of, and demand for, the articles produced, furnish the true means of meeting all demands, by the equivalent given for such productions. Bank paper stands, by agreement, as the sign only of such equivalent, and not as the thing signified, and possessed of intrinsic value. The thing signified is, therefore, alone essential to the payment of taxes. This is the result of my labor, or of such articles as that labor has been exchanged for. While there is a demand for the products of my labor, there will be no deficiency of means to pay taxes. If this demand ceases, bank paper will not relieve my distress. Banks afford, therefore, only a conditional, and not an absolute means, to favor the laying and collecting of taxes. They are not the best which offer as necessary and proper, and are, consequently, not Constitutional. This argument may be more

strongly enforced by tracing it through its various relations and tendencies. The Constitution prohibits the State Legislatures from making anything save gold or silver a legal tender. Hence you may infer that Congress possesses the power to establish a Bank, and make its paper a legal tender. For, if they possess a power to establish a bank, as a means for the laying and collecting taxes, they must also possess the means of making such bank paper efficient. If they possess a power to make bank paper a legal tender, to support the institution of a bank, they possess likewise the means of enforcing this power. The best means of enforcing this power is a standing army.

Congress, therefore, according to your doctrine, possesses the power, in the last resort, to compel us, at the point of the bayonet, to receive their bank paper, as a legal tender; that they may give facility to the laying and collecting of taxes. Such are the dangerous conclusions to which the admission of such arbitrary doctrines necessarily leads—doctrines, to which, I trust, we will neither of us submit, while life remains. But I will now endeavor to show that you possess no Constitutional authority to enforce such tyrannical doctrines. In article tenth, amendments to the Constitution, the doctrine is expressly laid down, that, “the powers not delegated by the Constitution to the United States, nor prohibited by it to the States, are reserved to the States respectively or to the people.” But the power to erect banks is no where prohibited, by the Constitution, to the States; it is therefore reserved by it to the States respectively, or to the people. Congress therefore cannot usurp this power over the States, so explicitly and expressly reserved, without a flagrant violation of this (not an interpolation as it has been jesuitically styled, but) integral part of the Constitution. This opinion is confirmed by article ninth, amendments to the Constitution, which declares, that the enumeration in the Constitution of certain rights shall not be construed to deny, or disparage, others retained by the people. But the people have retained the right to establish banks—for all banks not delegated to the people, or prohibited to the States, are reserved to the States respectively, or to the people. The States and the people have exercised this right. Their power to do so has never been questioned. Every attempt to exercise this power, on the part of Congress, is an encroachment on this right—is a denial or disparagement thereof; and becomes thence a violation of the Constitution. The States are prohibited from making anything but gold and silver a legal tender. They possess an unquestionable right to erect banks—but they cannot make their paper a legal tender. If Congress possesses the power to create a National Bank, they are not prohibited from making its paper a legal tender. This silence may be construed into a power of giving legality to their paper, by making it a tender. It may thus be exercised so as to construe their right into a denial or disparagement of the rights retained by the people.

If any doubts still remain respecting your want

of Constitutional authority to create a National Bank, I will proceed to satisfy you that you are clothed with no such dangerous power.

By the Constitution you are merely the servants of the people, acting under a specific power of delegated trust. You are strictly limited to the powers therein delegated, or to such incidental powers, as are necessary and proper to carry into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof; that is, you shall possess all the means necessary and proper, provided the powers vested in you by the Constitution cannot be carried into effect without such means; or where your power to use such means is not doubtful or limited. In article fifth of the Constitution we are instructed, that—

“The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by three-fourths of the several States, or by conventions in three parts thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.”

If the States and the people were so extremely cautious and guarded in procuring any amendment to the Constitution, will they calmly witness a sacrilegious infraction of its most sacred principles? Will they permit you, by a constructive power, to create rights which deny or disparage those which they have expressly reserved to themselves? Have they not ordered you, whenever your powers are doubtful, defective or limited, to apply to them for the remedy? Have they not explicitly provided the manner in which such remedy shall be applied? They have not permitted you to cut and carve for yourselves. A power is given to lay and collect taxes, duties, imposts, and excises. You shall have collectors and excise officers as incidental to their execution; you are to provide the safest depositories for them within your Constitutional reach; you must preserve them under your perpetual control by contract; you will be allowed stationery, store room, and house rent, with every other essential accommodation; but as we have reserved the power of creating banks to the States or to ourselves, you can claim no Constitutional power over them, unless within the district over which we have given you exclusive legislation: and this power you are invested with merely as legislators for that district, and not in your capacity of Representatives of the States respectively, or of the people.

But you conclude that the question of constitutionality is settled by precedent, acquiesced in by all the constituted authorities for twenty years.

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Such a conclusion facts will not justify. It is a most dangerous doctrine; it is an abandonment of the State sovereignties, who have for twenty years practically opposed and denied such doctrine. More than three-fourths of the States have, for a large portion of that period, been in the practice of establishing banks within their respective State sovereignties. If they had divested themselves of this sovereignty, by a delegation of such power to the United States, they would never have dared to exercise such a flagrant usurpation of power. Congress could not, without violating their oaths, have permitted this usurpation of their delegated authorities. Upon all other occasions they have been sufficiently jealous of the encroachment of State authorities. Can it be imagined that they would have witnessed such a daring and dangerous innovation, if such powers had been unequivocally delegated? On a subject of such magnitude, no one can believe such improbable suppositions. But it is all-important to the peace, safety, and happiness of the Union, that this subject be fully and fairly met; that it may be set for ever at rest. It is a subject on which we cannot suppose the Constitution was intentionally silent; provided the power was intended to be given by the States. It is one in the exercise of which collision would most frequently occur. The power would therefore be expressly given, expressly reserved; or, an agreement made to share it mutually. If any such agreement exists, it must, from the necessity of the case, be specific, express, and accurately defined and limited. No such compact exists in the Constitution of the United States. Upon this subject there is therefore only one alternative. The power is either expressly given or reserved. It is of too imperious a nature to be sought for by implication, inclusion, or as an incidental means to carry any other power into effect. It has never been contended that any such power is expressly given by the Constitution. If it had ever been parted with, it was all-important that it should have been parted with expressly. If it has been parted with, it can be shown. If it can be shown, it requires no casuistry to support it. Casuistry may involve and obscure, it can but seldom enlighten its subject.

The sole power given to the United States, to coin money, regulate commerce, or make war, has never been questioned. Upon these subjects no State has ever shown a disposition to interfere, either with the powers, or the means necessary to carry these powers into effect. No similar delegation of power on the subject of banking can be shown. It is therefore expressly reserved. For if it has not been so reserved, the individual States have, most of them, been in the daily usurpation of a power which did not of right belong to them; which of right belonged to another, for nearly twenty years. But if they have been in the exercise of a legitimate authority, then have the United States been exercising a dangerous and arbitrary usurpation of power, never delegated—expressly reserved, and practically denied and opposed by the States, during the whole of that

period. Those who advocate the power of the United States over this subject must yield the sovereignty of the individual States. They must show this yielding of sovereignty, otherwise their power is a usurpation. They have not shown any such delegation of sovereignty by the States. They never can show it, in this Constitutional instrument. It is therein expressly reserved. For, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Obligated thus to abandon my Constitutional position, I endeavored to rally my scattered forces, on the extensive field of expediency—I expatiated on the immense advantages resulting from a common circulating medium, the facilities afforded thereby to our fiscal and commercial relations, and the stimulus given to industry by a large foreign capital. My constituent suddenly arrested my progress, by observing, that it appeared idle to consume our time in castle-building, while we possessed neither the power nor the materials, to erect them. For, when the Constitutional authority is denied, no expediency can justify such an assumption of power. Such an assumption would, if acquiesced in, break down all the mounds raised by the people for their protection against the lawless encroachments of power. It would remove those landmarks, set up by them for their guide; and whenever such encroachments would be attempted, expose them a defenceless prey to their enemies. I will, however, offer a few observations on the subject of expediency; and hope to show you that, even on that ground, you are exposed to defeat. As to the fiscal operations of the country, they may be readily and safely conducted through less dangerous channels; by a different modification of means, within Constitutional reach. A large foreign capital is equally susceptible of being injuriously, as of being beneficially employed. We had better remain unemployed, than use means to promote industry which may only place us more completely at the discretion of foreign Powers; by giving them the discretion of, and command over, our industry. It cannot be questioned, that the large foreign capital in our country has been highly instrumental in deluging our country with unnecessary and extravagant articles of foreign growth and manufacture. These foreign gewgaws have nearly destroyed our economical and simple habits, as an agricultural people; and rendered us tributary to those foreign Powers, whose meretricious arts have inveigled us into such prodigal consumption of their commodities. The same funds have been employed to retard our progress in manufacturing for ourselves—lest we should become in reality independent, and disobedient to our task-masters; whose artful policy has nearly banished gold and silver, by the introduction of their fictitious capital, that they might thus disarm our energies—if the expiring embers of personal liberty or national independence should again rekindle, and nerve our arms and animate our hearts against every insidious or per-

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fidious encroachment upon the dearest rights of freemen.

Again, I endeavored to arrest the glowing progress of my constituent, by directing his attention to the numerous memorials on our table; painting, in fascinating colors, the beneficial operations of this institution on our country, and its Government: and, shading the back ground of the picture in sombre colors, with the ruin which a refusal to re-charter the Bank of the United States must bring down on the devoted heads of our State banks, and our commercial cities—and which threatens to extend its desolations to every description of our citizens.

What, my friend! exclaimed my constituent, have these basilisks so fascinated you, by their legerdemain artifices, as to deprive you of the evidence of your senses? Have you not, from the same description of people, numerous representations which boast a redundant capital? So redundant as to induce them to vest their superfluity of wealth in speculations upon British manufactures, and other articles of British commerce, by anticipated remittances? Is it unreasonable to trace these contradictory statements to the same impure source? May not this redundant wealth consist of national or mercantile deposits, in the National Bank, granted to such special friends as trade in British commodities, to favor their immense importations, and destroy our infant manufactures, that they may shackle our commerce in foreign fetters? May not the fictitious capital of the same institution be employed to coerce American citizens—the friends of American prosperity and independence—into a renewal of their favorite bank charter? To this rational solution of memorials so contradictory in their nature, I could offer no satisfactory reply—I gave up the cause as hopeless, on American ground. As an American citizen, I can never yield my assent to a measure, so apparently pregnant with mischief to the rights and liberties of my constituents. I cannot thus betray the confidence reposed in me as a representative of the American people, or violate the oath which I have taken to support the Constitution of the United States.

Mr. GARLAND said he was sensible of the anxiety of the House on all sides to take this question, and it was with extreme reluctance that he now trespassed on any portion of their time; but, as he should probably on this question give a vote different from that of most of his colleagues and many of his political friends, with whom he had been accustomed to act, he trusted that he should stand excused for the small portion of time that he designed to occupy. In the view, said he, which I intend to take of this subject, it is not my intention to go into a critical examination of the Constitutional ground on which it is conceived this subject rests. I am willing to believe that those who made the Constitution understood it in all its bearings, and the spirit in which it was adopted; and as many of the persons who were members of the Convention were in Congress in 1791, when the charter of the Bank of

the United States was granted, I cannot be so uncharitable as to believe that they would have been the first to violate its sacred principles. I am willing to believe that they possessed as much understanding and patriotism as we do, and, therefore, believe that they would not have been the first to violate the sacred principles of that instrument. In this opinion I am strongly supported by the conduct of the different States, the most of whom have passed laws for punishing, and have consigned to imprisonment the counterfeiters of the notes of this bank. I presume it will not now be contended that all the States have united in carrying into execution an unconstitutional law, and that the United States have, at different times, and under different Administrations, recognised its legality and enforced its principles for nearly twenty years. It does appear to me, Mr. Speaker, that the uniform acquiescence of the country in a measure for such a length of time, should put the Constitutional question at rest, and, for the sake of something like stability in our proceedings, this should be considered as an adjudicated case, in which the law and Constitution seem to have been settled by universal consent. But, Mr. Speaker, I will call your attention for a single moment to the eighth section of the first article of the Constitution of the United States. It will there be found that "Congress shall have power to lay 'and collect taxes, duties, imposts, and excises, to pay the debts and provide for the general welfare of the United States, and to pass all laws 'which are necessary and proper for carrying 'the foregoing powers into execution." I shall attempt to show from this clause in the Constitution that Congress have ample power to pass the bill for extending the charter of the United States' Bank; and this I expect to do, without calling in the aid of the general grant of powers as contained in the Constitution—from which some gentlemen seem to turn with such disgust—and in discussing this point, I shall attempt to reason on things as they now exist. Congress have imposed duties and imposts, which, from their nature, must be collected in the different States. Then, connected with the right of laying is the right of collecting, and with the right of collecting is that of deposit and transmission, in that manner which is best calculated to carry on the fiscal operations of the Government; and the proper inquiry for this House is, How can these objects be best effected? Will not a bank be most desirable, on many accounts, and one, the paper of which shall be well known and well circulated throughout the United States? This bank will receive your money and transmit it to any part of the United States where it may be wanted at the risk and expense of the bank. By this means, the expense of collection will be lessened, and the money transmitted to any part of the United States, so as to enable the Government to pay the debts and provide for the general welfare. In this point of view I consider the bank necessary and proper; and if it be necessary and proper, then the plain language of the Constitu-

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tion is satisfied, and is not made to depend on being absolutely necessary, as gentlemen seem to argue. And whether this is done by one individual, or by the incorporating of a number of individuals, is not material on the present question, only as it relates to effecting the object, and that will be best effected by the incorporating of a number of individuals, extending their offices of discount and deposit from one end of the United States to the other, all linked together by common interest and duty.

But some gentlemen say that this will be a corporation, and that all corporations are anti-Republican. This is a naked assertion, and is unsupported by any kind of evidence. The propriety of granting acts of incorporation is made to depend on the object to be accomplished thereby; and, to my view, republicanism has nothing to do with the present question. This is only the means necessary to carry into effect one of the specific grants of power contained in the Constitution. But it has often appeared to me that the word "republicanism" is used in this House as a kind of watchword, without any appropriate meaning or application to the subject under consideration, and in this case it seems to be addressed to the feelings of members more than to their judgments. But, sir, will it be said that to collect and transmit the revenue of the United States free of expense is an anti-republican measure? I presume not. Is any man's rights invaded, or are the great principles of equal liberty destroyed? I presume not. Then what can republicanism or anti-republicanism have to do with the present question? It does appear to me that it can have nothing.

But, gentlemen say, they can furnish us with a substitute to carry on the fiscal operations of Government. And what is that? One gentleman tells us to collect the revenue in specie and ship coastwise; and another tells us that the State bank paper will answer all the purposes of the Government, and that the State banks will be safe places of deposit for your revenue. But have not these gentlemen furnished you with strong arguments against both of these plans? They tell you that you need not be under any apprehension of the specie being carried out of the country; that the risk would be so great that no man in his senses would attempt it, and, notwithstanding they recommend it to this House as a course to be pursued by the Government. They also tell you that State banks are not to be trusted; that they carry on a kind of licensed fraud, and issue their notes to a large amount without having any specie in their vaults. If this be true, then, I presume that they would be very improper places for the reception and safe-keeping of the public revenue, and, therefore, should not be resorted to. And this is not the only objection to State banks. Their paper will not circulate generally throughout the United States; there will be a different value stamped upon it in different parts of the country, and it might well be refused by the creditors of the Government. In addition to this, they do not form and keep up

that chain of connexion throughout the United States that would enable them to transmit the money to such places as the demands on the Government might require.

Then, Mr. Speaker, if the Bank of the United States shall be put down, (a measure which I consider almost certain,) your revenue will be payable in specie, and nothing else can be received agreeable to the existing laws of the land. And have gentlemen given themselves time to consider where this specie is to come from? Have they reflected that, from the best data on which we can form a calculation, there are less than twenty millions of dollars in actual specie in the United States; a sum not more than sufficient to meet the demand of the Government in one year of commercial prosperity, even if it was in your power to unlock the chest of every miser, and to bring into circulation every cent of actual specie now in the United States? And this, you well know, will not be in your power. And was it in your power to bring into the Treasury of the United States the whole amount of specie now in the country, and in that way were you able to discharge the demands of the Government for one year, what will then be left to give currency to the bank paper as a circulating medium in the country? To give currency to bank paper, it must carry with it a belief, at least, that there is, in the vaults of the bank from which the paper issues, a sufficiency of actual specie to render to you a dollar in specie for every dollar in paper which you return them. But, Mr. Speaker, this impression cannot be made in the present state of things. It will very soon be known that the Treasury of the United States has gathered into its vaults all the actual specie in the country. This being the case, there can be no specie in the vaults of the bank. Of course, the paper will cease to circulate, or, if it circulates at all, it will be at a rate below its nominal value.

But, sir, will those gentlemen who advocate the doctrine that State bank paper shall be receivable in discharge of the revenue tell me who is to make the selection from amongst the banks; whose paper is to be received? Do they mean to throw the responsibility from their own shoulders on the Secretary of the Treasury, and make him individually liable in case the bank should fail? I presume not. This would be an unreasonable responsibility. And if this is not the case, the public revenues will be exposed to great risk, and frequent losses will be the certain consequence. In addition to this objection, if the Secretary of the Treasury is to be left at his own discretion to take such State bank paper as may suit his mere will and pleasure, without any individual liability, do you not at once give him a decided control over all the moneyed institutions of the country, and an influence greater than what is possessed by all the rest of the Government besides, and that at the risk of the loss of the revenues of the United States? I am willing to admit that I have the highest confidence in the integrity and talents of the present Secretary of the Treasury, but we do not know how long he may hold that

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office, and we know not who may be his successor; and if there was a certainty that he would continue to administer the fiscal concerns of the Government, still, I contend that it would be unwise and unsafe to place so much power and influence in the hands of any officer of the Government that is so far removed from the people, and to whom he feels no kind of responsibility.

But, sir, if the Government refuses to receive State bank paper, as I presume they will, then it must depreciate, and will no longer be a circulating medium in the country at its nominal value. We shall then witness the strange phenomenon of a country, with an export trade worth upwards of seventy millions of dollars annually, without one single cent in circulation that will be a tender in the payment of debts or receivable in the purchase of produce at its nominal value. How far this will comport with the interest of this nation is for those to determine who preside over its concerns. It has always been my opinion that the true interest of a nation consisted in her having a circulating medium at least equal to her export trade and one year's revenue; and, if she did not possess that in actual specie, it should be the wisdom of Government to create an artificial capital equal to those objects—and that it should be so secured as to possess the confidence of the nation. Without this circulating medium, the spirit of industry will be checked, agriculture will no longer flourish, and a universal stoppage of payment must take place. I hope gentlemen will at least take time to reflect before they draw down on their country those direful evils, and will not suffer their minds to be occupied too much by party feelings, which in my opinion have nothing to do with the present question. But some gentlemen seem prepared to denounce every man who does not give his negative to the bill under consideration. Sir, considerations of this kind will have but little weight with me. I know no party but the people; I know no interest but the public welfare; and I shall, on this and all other questions, which are presented for my decision, give such a vote as in my judgment is best calculated to promote these great objects; and if I err, I shall have the consolation that I have independently exercised my best understanding and that I have not been the blind follower of any political party.

But, Mr. Speaker, I will take gentlemen on their own ground for a moment, and see how this measure will operate. They say that the State banks will go on to issue their paper and it will continue to circulate as usual; but, sir, let it be recollected that by the dissolution of the charter of the Bank of the United States, about seventeen millions of dollars are at once taken out of circulation, which is equal to one-fifth of all the floating capital of the United States. Then, independent of the individual distress which this must produce, it will reduce the value of all produce and property in market in the proportion that the sum taken out of circulation bears to the whole sum now in circulation. I presume that such a state of things cannot be

desirable; for although you may by your measures reduce the price of tobacco, flour, hemp, &c., still you will not be able to procure a bushel of salt or a pound of sugar for less than what it is now selling for. But my honorable colleague (Mr. BORWELL) seems to think that this would be very desirable. He says it would reduce the price of labor, and in that way the farmer and planter would be forced to abandon his agricultural pursuits, and become a laborer in some manufacturing institution, at low wages, and thereby enable the manufacturer of this country to undersell the manufacturer of Europe. To my mind this appears to be a wild theory, at war with the best interest of the country. I consider agriculture as the fountain of wealth in this country, and commerce and manufactures as the handmaids, and I never can consent to the depression of the former for the benefit of the latter. It would be with extreme regret that I should see the independent cultivators of the soil obliged to abandon their farms and take up their residence in a workshop, and become the dependants of some lordly tyrant, instead of being the independent cultivators of the earth. In addition to this, I have always considered the agriculturist as the best citizen; as entertaining more rational ideas of liberty, and being more strongly attached to the independence of his country; and it is on agriculture that we must rely for wealth in time of war, and it therefore has a primary claim on the patronage of Government.

The gentleman from New York (Mr. PORTER) has told us that, inasmuch as the friends of the bill under consideration have relied on different parts of the Constitution, therefore no one part gives us the power. The singularity of this idea is manifested to the weakest capacity, and the fair deductions very apparent; I presume, that if the measure can be supported and justified under different views of the Constitution, it proves that the measure is abundantly justified on Constitutional grounds, and that it is in unison with the general principles of the instrument. And shall we be told, because it has the support of many parts of the Constitution, it is weaker than if it had only one? To exemplify my idea, suppose a proposition in arithmetic that by many modes of calculating you could arrive at the same result, would it be said that this was less true than where you could only come at the result in one particular way? I presume not. But Mr. Speaker, if any measure could derive strength from the inconsistency of its advocates or opponents, then, sir, I am persuaded that the opponents to the bill have done as much in its favor as its friends have. I beg you, sir, to recollect the different grounds on which the opposition have relied. Some gentlemen are opposed on Constitutional grounds; some gentlemen are opposed because they are afraid the bank will coalesce with the Government and overturn the liberty of the people; others are opposed because the bank is hostile to the Government; others are opposed because they want a National Bank; and others are opposed because a part of the cap-



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ital stock is owned by foreigners; and here they attempt to awaken all the angry feelings of the nation against the use of foreign capital, while they carefully keep out of view the fact, that a Republican Administration sold to foreigners all the capital which they had in this bank; and thus, by uniting all those heterogeneous objections, a majority is formed in this House opposed to the passage of the bill. But, sir, I do not expect to derive any aid from these incoherent objections as giving any support to the bill; for, from the zeal that gentlemen have shown in their opposition to this bill, it was to be expected that they would touch every string that was likely to sound in unison with the feelings of any part of this House. Mr. Speaker, I shall pass over many of the minor objections that are made to the passage of the bill now under consideration, and come to the conclusions of the opponents of the measure. They are obliged to admit that the establishment of such a bank as is contemplated by the bill under consideration would be convenient and would aid the fiscal operations of the Government, and say that if it was the only way in which the finances of the country could be administered, then it would be justifiable. And here, in my opinion, the gentlemen give up the Constitutional ground; for, if the measure be necessary and proper to carry into execution any of the specific grants of power contained in the Constitution, then the plain language and meaning of that instrument is satisfied, and is not made to depend upon the question whether there is no other way in which it can be done.

I have endeavored, Mr. Speaker, to examine this subject with candor, and prepare my mind to decide, on it without taking into view the ruin of thousands, that must be the certain consequence of withdrawing from circulation at one time so much of the floating capital of the country. And it does appear to me, in every point of view in which I have been able to examine it, that at this time to break in upon the established order of things, under which the United States have progressed in wealth and prosperity unexampled in any preceding twenty years, would be, to say the least of it, a dangerous experiment.

Mr. NICHOLSON.—Mr. Speaker: As I shall vote against an indefinite postponement of this bill, because I shall vote for the entire bill, when rendered as little liable to objections as possible; and as this vote will probably stand at variance with many of those for whose opinions I entertain a high respect, I deem it essential, as well for my justification as for the information of others, to state the reasons upon which my vote is to be given.

The system of banking being an improvement upon the moneyed system, by which commerce, or the exchange of commodities, is carried on, and therefore still more complex in its operations, and more difficult to be understood, has excited the approbation of some, while it has equally excited the prejudices of others. Those, however, who have been best acquainted with its operations, when properly regulated, have, in all coun-

tries, united in a general expression of a conviction of its utility, not only as it respects personal convenience, but also as it regards the facility with which the financial affairs of nations can, with its aid, be conducted.

As this subject has become quite interesting, it becomes the duty of every one to assist in an endeavor to throw all possible light on the subject, not only as to the constitutionality of this Government legislating upon it, but also as it regards its operations and effects; in order that we may have as clear a view of the whole ground as possible, and thereby be better enabled to judge with more certainty of the merits or demerits of the bill now under consideration. I shall therefore endeavor to explain my views of the subject as concisely as possible; and if I shall, in any respect, be found groping in the dark, in the remarks which I shall offer, I trust that an ordinary degree of candor will be sufficient to shield me from the imputation of sinister design. First, then, as to its constitutionality.

Perhaps, sir, the doubts entertained by some, of the constitutionality of this bill, arise from an extreme, and, as I conceive, unfounded jealousy, that this Government is calculated gradually to usurp the powers of the State Governments. This jealousy is a foible with many well meaning legislators; I however respect it, as I am sensible that it arises from a good motive; and I believe that if it be kept within reasonable bounds, it may, at least, be of no disservice in preserving our federative system of government. Probably we in some measure derive this jealousy of the exercise of powers from our ancestors. The Crown, the Peerage, and the Commons, of Great Britain, are three distinct and conflicting interests—the Crown to preserve its prerogatives—the Peerage to preserve their privileges—and the Commons to preserve their rights, if they can. But here, sir, we have neither Crown nor Peerage—we have no interest but the interest of the Commons, or the People. Our General Government, as well as our respective State governments, emanate directly from the people; the people have the same control over each; and why we should be so jealous of the former, and so partial to the latter, seems somewhat difficult to determine.

When our Federal Constitution was adopted, the knowledge of a federative system, upon its present plan, was new, and existed merely in theory. The objects, however, intended to be effected by its adoption, are clearly and distinctly set forth in its preamble. They are “to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty,” &c. Yet, in the eighth section of that instrument, which contains an enumeration of certain specific powers, there is not the same clearness and precision. In the first paragraph of that section, powers are given to Congress to provide for the common defence and general welfare of the United States; and these powers, which are necessarily unsusceptible of precise definitions, are coupled with others, in the

same paragraph, in such manner as to render their meaning doubtful, especially in the minds of those who entertain a strong partiality for the powers of the State governments. The powers of this Government, which arise from the operation of common law, are still more indefinite, and, in the minds of many, difficult to comprehend. Perhaps, sir, generally speaking, it would not be too much to say, that it must remain for that good sense which is the offspring of experience and mature deliberation, more than to specific definitions of powers as set forth in that instrument, to ascertain precisely what powers the General Government ought to possess, and what the States ought, individually, to retain. In forming that instrument, no doubt, sir, such powers, if not all necessary powers, were intended to be given to this Government, as should be adequate to all the purposes of national sovereignty; that it was not, for want of these essentials, to hobble on crutches through an imperfect state of existence to premature decay; in short, that it, being like the State governments, an emanation from the people, should be so far self-existent as to depend for its support on that power only, the collected power of the people, which first ushered it into existence. In the federative system, which I esteem the perfection of the science of government, the rule to be observed in the distribution of its powers, between the Confederate States and the Federal head, is, as I conceive, simple and plain. It is this: Can any particular power, which is about to be vested somewhere, be exercised in local and separate districts or States, consistently with the safety and good of the whole? If it can, it ought of course to be exercised by the respective State governments. All other powers, which cannot be thus confided, consistently with the safety and good of the whole, ought to belong to the General Government.

According to this rule, it will be seen that the powers which belong to the States are much the most numerous, and by far the most important in securing the rights and privileges of the citizen.

I am not contending that the Federal Constitution is exactly conformable to this rule; but it does not, however, essentially vary from it. There are, as I conceive, two or three additional powers which ought to be incorporated in that instrument, to wit, the powers to provide for a general system of education, and to make canals and roads; and it contains at least one power, the "power to establish an uniform system of bankruptcy," which, as experience has evinced, ought to belong to the States. But, sir, the power now under consideration, the establishment of a banking system, I am fully convinced is improperly and strictly within the limits and meaning of the Constitution, and I think I can clearly and plainly show that it is so.

In the eighth section of the second article of that instrument, are contained most of the enumerated powers which are granted to Congress; and the last there enumerated is the power to make all such laws as are "necessary and proper to carry the foregoing powers, and all others

contained in the Constitution, into operation." Among those enumerated powers are to be found, powers to raise revenue, to borrow money, to regulate commerce, and to provide for the general welfare. Now, sir, such a bank as is about to be made or re-established, by the operation of the bill before us, is, in my mind, a "necessary" thing, to enable this Government to carry each of the foregoing powers into effect. I lay particular stress upon the word "necessary," because gentlemen who oppose this bill have rested much of their arguments upon it.

It is "necessary" for raising revenue.

There is generally a profit of about three or four per cent. derived to the owners of bank capital, beyond what they could obtain for the use of their money, by lending it out at legal interest. This being a benefit, which can only be secured to them through the interference and protection of Government, it is but just that they should pay the Government something in return for the favor thus conferred; and the bill before us contains a provision to this effect. Twelve hundred and fifty thousand dollars is the sum contemplated as the least which ought to be accepted by Government, for a mere renewal of the charter, with its present capital, for the ensuing twenty years. By passing this law, therefore, we shall derive to the Government that amount of revenue, which in these times, is, in my mind, no contemptible thing. If the capital of the bank be eventually enlarged to thirty millions, we shall derive at least four millions of revenue from it, in addition to some interest which will at times become due on deposits which may be made in the bank. Thus the passage of this bill becomes a means of raising revenue.

It is "necessary" for the purpose of borrowing money.

Governments, like individuals, in unforeseen emergencies, must frequently experience very pressing occasions for more money than they have at command, and, to supply this deficiency, must resort to borrowing of others. A prudent Government, therefore, like a prudent individual, ought to have the means of borrowing made as certain as possible, in order to avoid the derangement or distress which may ensue, in consequence of being unable suddenly to procure a loan. The passing of this bill goes to effect this desirable object, as it contains a provision for borrowing, with certainty, as large a sum as this Government will probably at any time suddenly stand in need of. It is, therefore, in that point of view, very "necessary," and, in all ordinary cases, a great convenience, for the purpose of enabling this Government to borrow money.

It is "necessary" for the purpose of regulating commerce.

A very essential regulation in commercial affairs, is, to have that which serves as the representative of all the articles, which are the subjects of commerce, as small, light, and portable, as possible. To travel any distance, and carry with you twenty or thirty thousand dollars, of silver money especially, is extremely inconvenient;

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but, if you can carry something in your pocket, something which represents this sum, the inconvenience is at once removed. Yet, this representative must be such as will be received as such in every part of the country, or else it fails of producing most of its beneficial effects. A man residing in New England has occasion to go to Natchez to purchase \$20,000 worth of cotton; but the bank bills of his own State will not pass there; to carry hard money is incurring a great risk, and, at the same time, expensive in transportation; hence, it becomes "necessary" to provide a representative of hard money, which will be received as such in every part of the country; and that can only be done by the establishment of a bank, whose bills will have this general currency. Thus, the passage of this bill, or something similar, is "necessary" for the purpose of regulating commerce.

It is "necessary" for the purpose of promoting the general welfare.

This expression is certainly very broad, and seems, at first view, to include a good deal. For this reason, many well-meaning politicians have been startled at the idea of a delegation of powers so indefinite, and so comprehensive. I imagine, however, that the expression is not pregnant with any mischief or danger. It certainly would not be "promoting the general welfare" to place any power in the hands of this Government, which could as safely, and as consistently with the good of the whole, be exercised by the respective States. It would be upsetting the first and leading principle of a confederated Republican Government. If we, therefore, invariably adhere to this leading principle, we shall find the expression not only harmless, but very proper to be placed in the Constitution. What I have already said of this bill being necessary for the purpose of raising revenue, for borrowing money, and for regulating commerce, is perhaps all that is necessary to be said to show that it tends "to promote the general welfare," because, in this case, the one is necessarily included in the others.

Permit me now further to add, sir, that this bank and its branches, are also essentially "necessary" for the collection of your revenue, for its safe-keeping, and for the purpose of transmitting it from one part of the Union to another, as occasion may frequently require.

We are, indeed, told, sir, that our revenue can as well be collected by, and deposited in, the State banks. What! all the revenue collected in any one State to be deposited in one State bank? No, we are told, we will put five or six hundred thousand dollars in one bank, as much more in another, and so on, until we get it all stowed away in some way or other. Indeed! What an admirable plan! And which banks will you select for this purpose? Will not the selection of one excite the envy and opposition of others, so as to induce them to unite in endeavors, and perhaps successfully, to ruin such selected bank? Will these selected banks pay the United States as large a sum as is contemplated in this bill, for the privilege of having the revenue deposited in their

vaults? No; they contemplate nothing of the kind. It would be a bribe, we are told, sir! Besides, it is even said by some, that three or four million dollars is but a paltry sum, unworthy the notice of this Government! Can you contrive any method to compel the directors of such selected banks to render you, at stated times, a true statement of their situation—of their discounts—of the sums due them—of their deposits, in order that you may be convinced that it is safe to trust so much money with them? No. Suppose you want to borrow money—how will you manage matters then? Why, we will borrow a hundred thousand dollars of one bank, a like sum of another, just as a needy man borrows one dollar of one man, two dollars of another, and so on, until his wants are satisfied. Better still—this is really excellent! Well, suppose you wish and have made out to borrow as much, as you have to send the money to a different and perhaps distant quarter of the Union, are you certain you can make it pass current there? Will not those banks, which have not been so fortunate as to have received a share of Governmental favors, take measures for counteracting any such currency? And would it be just to pay off a poor old soldier his hard-earned pittance, in bills on which he would probably be obliged to make a discount of five, ten, or perhaps twenty per cent. before he could get them off his hands?

Gentlemen, sir, who oppose this bill, have got into a dilemma, in opposing it on the ground that the State banks can be made to answer the purposes of this Government, as they thereby virtually admit that banks of some kind are "necessary" in managing its concerns. The point of difference, then, becomes resolved into this: what sort of banks are necessary? We all understand that the stockholders of State banks would be glad of a slice of "the loaves and fishes." My neighbor, who keeps a horse to let, might say to me, it is not "necessary" that you should keep a horse, for I keep one which I should be glad to have you make use of. In such case, the arrangement of my neighbor would be so manifest that all would commend me in telling him that his horse was but a sorry animal, which he might keep to himself; and that I knew best what kind of horse suited my purpose. Sir, State banks are the creatures of States; this Government cannot control them, and therefore ought to have no concern with them. If, however, particular States will be so arrogant as to insist that this Government shall make use of their creatures, why can they not, on the same principle, go a little further, and say to this Government, "here is a collector, a district judge, or a district attorney, which we have created, ready to your hands; it is not 'necessary,' therefore, that you should create these officers within our jurisdiction, because those which we have created will fully answer your purpose." We are not quite ripe for this mode of doing business, sir, but I believe we are in a fair way for its accomplishment.

I perfectly understand, sir, that this preposterous plan of substituting State banks has been

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suggested, and, in some measure, urged, through the influence of some of those banks. I see runners out from different quarters, endeavoring to convert people to this new doctrine. I see presses prostituted to the purpose of endeavoring to raise a popular ferment against the passage of this bill, or any other of a similar nature; but that any disinterested man can seriously think that this miserable quackery, with which it is proposed to administer to the wants of the body politic, is really worth a moment's attention, is more than I am willing to believe. Should it, however, prove true that a measure which, during the last session, could have been carried by a majority of nearly thirty, shall now be lost, although I shall deplore that instability of opinion which shall have produced this sudden change, or that dereliction of independence which should yield to temporary clamors, artificially raised, I shall, nevertheless, console myself with the conviction that time and experience will correct the error, and that the merits of this measure will hereafter be decided upon with more correctness of judgment.

But, sir, I have thus far merely shown that this bank, or some other of a similar nature, is "necessary," in several distinct points of view, to the purposes for which this Government was established. I have not however shown, nor can I show, that it is indispensably "necessary." But here, sir, lies the error of those who have contended against the constitutionality of the measure. It will be recollected, sir, that when this bank was first established, those who opposed it on Constitutional grounds, (and for their opinions I have the highest respect,) contended, that although the measure might be useful, fit, and expedient, yet if it was not indispensably "necessary," it must of course be unconstitutional. Let any one examine the debates of that time, and they will perceive that this was the strong ground of opposition that was then taken, and the same ground is now taken, but to this I reply—

If the words of the Constitution were, that "Congress shall have power to make all such laws only as are indispensably necessary to carry the foregoing powers into effect," then, indeed, the opponents of this bill would, on Constitutional grounds, be correct; because, that although the Bank of the United States, or a National Bank, if you please, may be a "necessary" appendage to this Government, still are neither of them indispensably "necessary"—this Government can do without them in the same manner that a farmer can do without a hoe, by substituting a spade, or that a carpenter can do without a plane, by substituting his broadaxe.

The word "necessary" is of the class of adjectives, and admits, though irregularly, of the degrees of comparison incident to words composing that part of speech—the positive, necessary—the comparative, more necessary—and the superlative, indispensably necessary. We mean by the first, needful, fit, or proper; by the second, more needful, fit, or proper; and by the third, that which we cannot do without. If the words of

the Constitution were, "Congress shall have power to make all laws which shall be needful, fit, and proper, for the purpose of carrying the foregoing powers into effect," the difficulty would probably vanish at once; as I trust we could soon determine whether a Bank of the United States or a National Bank, is a needful, fit, and proper appendage to this Government. But, sir, we have first given to a harmless expression a most formidable meaning; we have made the word necessary mean indispensably necessary. And, having thus raised a mountain out of a molehill, we are now about to resolve, very wisely, no doubt, that we cannot get over the mountain.

If I were to agree to provide a farmer with such tools and implements as are necessary for carrying on the business of farming, I should suppose that I was bound to provide all such tools and implements as are commonly used in that business. I could not say to him, here is a sled, which must answer the treble purpose of sled, cart, and wagon; or here is a spade, which must answer both for digging and hoeing. I could not avoid my engagement by telling him, the cart, the wagon, and the hoe, were not indispensably necessary; because he could make the sled answer the place of the two former, and the spade the place of the latter. No, sir, this would not be complying with the terms of my engagement. Now, sir, it is a poor rule that ought not to work both ways alike. The people of the United States have granted to Congress certain specified powers, and have further granted the means; that is to say, the necessary tools and implements for carrying those powers into effect. By this grant, then, it becomes proper for us to make use of all or any of the means that are needful, fit, and proper for effecting these purposes; but, sir, we are about to determine that we will not make use of some of them as long as we can possibly do without them; we will reject the cart, and the wagon, because they are not indispensably necessary; we will mount ourselves upon the sled! and thus we will heavily drag along the concerns of this Government.

Sir, in the estimation of some this may be wisdom—it may be patriotism; but, in my estimation, it is neither; it is folly, it is destructive to the best interests of this country.

I shall here further observe, that if we are determined to test the constitutionality of all laws which are passed by Congress, by their being indispensably necessary, we shall find that a great many unconstitutional laws have been passed. During the last session, we passed a law for creating three new officers in the Post Office Department; yet no one will pretend that the passage of this law was indispensably necessary; because that Department had been, and could still have been, conducted without them. Indeed, sir, if you look at your statute books you will see that many laws have been passed that were not indispensably necessary, but were merely needful, fit, and proper. Even this splendid Hall must stand in judgment against you, if such a

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narrow construction of that part of the Constitution is to prevail; these pillars of costly workmanship which surround us, and the elegant dome which they support, were made in conformity to the laws passed for the purpose. And are they indispensably necessary? Could we not do the business of this nation in a room that should not have cost one-tenth of the money that has been expended on this? Instead of these easy and expensive seats, with which every member is accommodated, could we not sit on such as that on which "the immortal Alfred sat?" Again, sir, laws providing for the erection of light-houses, and for the establishment of a military academy, have been passed by Congress. These laws must spring out of the power, by the Constitution, to "promote the general welfare;" for, to no other power given by the Constitution are they properly referable. Erecting light-houses is not "regulating commerce," properly and strictly speaking; neither is teaching military service to those who are not soldiers, "raising and supporting armies;" but each are means of "promoting the general welfare," by the usefulness of the former to commercial business, and the latter to armies, when they shall have been raised. But are either of these indispensably necessary? Certainly not. But, perhaps, I have said enough on this subject. Believing, as I do, that the General Government ought to possess all such powers as necessarily concern the best interest and good of the whole, and believing, too, that the Constitution, however indefinite it may in some instances be found, was intended to contain a grant of such powers, with the exceptions which I have before mentioned, it must remain for others, and not for me, to gauge and limit it to such narrow constructions as are equally incompatible with the purposes of national sovereignty, and the obvious meaning of words in our mother tongue.

There can be no doubt, sir, that our written constitutions are of excellent use in designating the form and drawing the outlines of government, in such manner as renders them but little liable to capricious variations. While in this way they serve as durable landmarks to those in power, they will also be of essential benefit to posterity, if they should incline to a degeneracy of political principles, by exciting their emulation, in holding up to view those principles by which their nobler ancestors were governed. Having been the originals, however, in the adoption of written constitutions of government, we have made them quite a hobby-horse, and seem to imagine them adequate to all the purposes of preserving our liberties forever. For myself, I am not quite so strong in this belief. I fear that if we place too much reliance on this specific, without providing some other means for guarding and preserving our liberties, they may depart from us while we are in full possession of our written constitutions. Instead, then, of being over scrupulous about giving to particular expressions in our constitutions a narrower meaning than they obviously import, let us try to investigate the

principles by which powers must necessarily be regulated in a free confederated Republic, if regulated as they ought to be; and having ascertained this point, having ascertained what powers necessarily concern the whole united, and what powers may be locally exercised without injury or danger to the whole, we can then easily perceive what ought to be, and what is the real meaning and intent of words in our written constitutions.

And, above all, let us not be terrified by those who, for want of better arguments, appeal to our fears; who tell us of the danger there is in adopting this or that construction, or this or that measure; that if you admit of powers by implication, you open a wide vortex, in which will certainly be swallowed up all the powers of the States; or that if you adopt one measure, you will, therefore, adopt another, and another, until you have absorbed all powers whatever. Sir, this kind of argument, if argument it may be called, has become stale with me—it has no weight on my mind—and for this simple reason, that demonstration, and prophesying, are two very different things. Whatever may have been the case in ancient times, I have always observed in my own day that weak arguments, and a spirit for prophesying, are usually coupled together. In my mind there is more danger that the State Governments may, from the selfish motives or the ambitious views of some, eventually reduce this Government to a mere skeleton of power, than that this is ever essentially to weaken the powers of the States. I trust, however, that the danger of the one absorbing the other is not very great on either side. As all our Governments emanate from the same source, the people, this for national, and the others for local purposes, as long as we retain our present equality of condition, and of rights, and our consequent independence of sentiment, I should suppose that even a sense of convenience alone would always correctly dictate where the different governmental powers ought to be placed. The danger to civil liberty, therefore, lies, not in the formation of our different governments, but in the foundations of civil society. If our descendants should lose sight of those principles of civil liberty which we have learned; or, if the condition of men should become so unequal, as to produce a state of abject dependence of the many upon the few; then, and I trust not till then, will our present civil institutions be in danger of being overturned.

As I proceed I shall here briefly notice an amendment to the Constitution, under which my worthy colleague, (Mr. PORTER,) and an honorable gentleman from Pennsylvania, (Mr. SEYBERT,) have taken refuge, in order to fortify themselves with an argument against the constitutionality of this bill; it is in these words—"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

If gentlemen really imagine that they have discovered anything in this amendment which

goes to render the passage of this bill unconstitutional, I shall merely observe, that—

"Optics sharp it needs, I ween,  
"To see what is not to be seen."

If anything be absolutely passed from one to another by grant, as in the case before us, the grantor becomes divested of that thing, and it becomes immediately vested in the grantee. All then that is necessary, in the present case, is first to ascertain what powers are granted by the Constitution; for it is very certain that what are not granted are still vested in the grantor. A has granted to B certain things; now, says A to B, if my hat is not included in this grant, the hat shall still be mine. Agreed, says B. This is a very plain case, sir, and how such intelligent gentlemen could think of intrenching themselves behind this amendatory article, which in fact means nothing, is really more than I conceive.

But my worthy colleague, to whom I have just referred, has taken another ground, on which he has attempted to rest much of his argument against the constitutionality of this bill, and which is, therefore, worthy of some notice: that is, that by the Constitution this Government derives no powers by implication. Sir, this appears to me the most absurd doctrine that I have yet heard advanced on this subject. It would be a waste of time to go into lengthy details to show the absurdity of this proposition; but, let me ask that gentleman, wherein could have existed the necessity of those amendments to the Constitution, which are almost wholly restrictive, if it was not admitted that, without these amendments, Congress would have had an uncontrolled power to legislate on the subjects to which they refer? and yet many of these subjects of legislation are not even mentioned in the Constitution. The first of these restrictive amendments is, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or of the right of the people peaceably to assemble, and to petition Government for a redress of grievances." Now the Constitution is silent on all these subjects; yet, if Congress possess no powers to legislate upon them, where could have existed the necessity of restricting them by this amendment, to certain bounds, if they should at any time deem it proper to make them the subjects of legislation? Again, sir, the Constitution makes provision for the establishment of a judiciary, but says nothing about the system of law, whether the civil or common law, by which the courts, thus established, are to be regulated; how was it then understood that the common law was to be adopted? By implication, undoubtedly.

But, sir, in showing that this Government derives many powers by implication, I am sensible that I am travelling somewhat out of my way. It is sufficient to say, that the power of passing this bill is not derived to this Government by implication; the power accrues by express terms in the Constitution—the power of providing the

best means for carrying other governmental powers into effect.

There is one other ground which my worthy colleague has taken, in his endeavor to show the unconstitutionality of this bill, which I also deem worthy of some slight notice: That is, that the constituted powers of this Government are mere delegated powers, not from the sovereign people, but from the States, as States! And how does he prove this strange doctrine? Why, says he, if the States should neglect or refuse to elect the Senators, which compose one branch of this Legislature, this Government would be dissolved. Therefore, this Government depends upon the will of the States for its organization; and, therefore, it is a creature of the States! Really, sir, this is very profound reasoning! Let us just look at the other side of the question, sir, and we shall then be enabled to see what a very convenient method of reasoning this is. I am going to prove, in the same way, the very reverse of this proposition; that is, that the constituted powers of this Government are mere delegations of powers, not from the States, as States, but from the sovereign people. I prove it thus, sir: If the sovereign people should neglect or refuse to elect the representatives, which compose one branch of this Legislature, this Government would be dissolved; therefore, this Government depends upon the will of the people for its organization; and, therefore, it is a creature of the people. In the same way, sir, you can prove that the State governments owe their existence to the will of the returning officers of the different counties; because, if those officers should neglect or refuse to make the returns of the elections, there could be no State legislatures, and thus the State governments would be dissolved. Therefore, a State government depends upon the will of the returning officers; and, therefore, it is a creature of those officers.

Admitting, for argument sake, that we could not go to elections unless our horses would carry us there, we can, in the same manner, prove that all our governments are creatures of those animals; because if our horses should refuse to carry us to the election polls, there could be no elections; if there were no elections, there could be no representatives chosen; and, if none were chosen, there could be no legislatures; and thus the governments would be dissolved. Therefore, all governments would depend upon the will of our horses; and, therefore, they would be mere creatures of those animals.

We are very apt to run a wild-goose chase, sir, when we attempt to demonstrate, by reasoning, facts which are obvious to the senses. Thus, if you would prove that there is heat in fire, don't go to reasoning about it, but put your finger into it, and the fact will be ascertained at once. In the same manner when we want to ascertain whether this Government is a creature of the States, as States, or whether it is a creature of the people, let us just look at the Constitution itself, the text-book, as an honorable gentleman from North Carolina calls it, and there we can

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ascertain the fact precisely. Its preamble determines the point. The words of that preamble are, "We, the people of the United States," &c. Not "We, the United States, as States," &c.

But, sir, even if this Government was a creature of the States, as States, what bearing could it have on the question before us? Ought we on that account to give to words in that Constitution a different meaning? Would the words, "Congress shall have power to make all laws which are necessary and proper to carry the foregoing powers into effect," be liable to different interpretations, according as it should be ascertained that this Government is a creature of the States, as States, or of the people? Certainly not.

I have thought proper, thus far, to notice some of the principal grounds on which my worthy colleague has rested his arguments against the constitutionality of this bill, because if these grounds are not tenable, his arguments must fall of course; and thus would be justified the assertion of the honorable gentleman from Massachusetts, (Mr. PICKMAN,) that the whole argument, taken together, is "an ingenious piece of sophistry." It is so, indeed, and it is nothing more. Another inducement which I have had for this is, to enable myself with propriety, and at the same time with pleasure, to observe, that the grounds taken by my colleague have been the principal reliance of the opponents of this bill; as many gentlemen on that side have, probably with a very becoming diffidence in the strength of their own views of the subject, pointed to him as one among them whom they seemed to imagine had sustained the argument; a tribute of applause which I think those gentlemen were bound in conscience thus justly to bestow.

Having, as I trust, obviated the Constitutional difficulties which have been urged against the passage of this bill, it remains to say something about its merits; and in doing this, I shall be as concise as possible.

It would be arrogance in me, sir, to go into a lengthy and minute detail of the operations of banking, as it is proper to presume that every member has made himself acquainted with the subject. I might, however, be permitted generally to observe, that from the constant depreciation of gold and silver money for centuries past, and the probability of their still continuing to depreciate, the necessity of a well established banking system becomes every day more and more obvious. Ten thousand dollars, which, in these days, is but a moderate fortune, is nearly a cart-load in silver. Thirty years ago half that sum would purchase as much as the whole will now. Possibly, in the course of a century, a pound weight of gold will not be more valuable than a pound weight of silver is at present. Gold, as a currency, will then have become very cumbersome; and silver, as a currency, will then be scarcely portable. What, then, is to be done? Why put these metals into the vaults of banks, and issue, in paper, that which represents them; or rather, that which jointly represents them and

the promissory notes, or other liens on property, which are deposited there. This, sir, is the only remedy of which I can have any conception; and, therefore, it appears to me highly important that the best possible plan of banking should be devised and adopted by this Government.

It has been my opinion, sir, that, instead of the present United States' Bank, a National Bank ought to be established upon a general plan, and be so organized as to invite, and eventually draw into it, much of the other banking capitals, in order that the business of banking might be reduced more to one entire system; that it should not be under the control of Government, but, nevertheless, under their inspection; that, for this purpose, Government should appoint a small proportion of the directors in every branch, and in the mother bank, whose business it should be to render, at proper intervals, stated accounts of its debts, discounts, and deposits, in order that it should always appear that it was properly conducted, and kept within due bounds; and, finally, that Government should share such part of the profits of the establishment as might be deemed reasonable. Proper provisions ought also to be made to prevent its being rendered subservient to political or party purposes, which I imagine would be no very difficult thing.

The principal advantages to be derived from a general system of this kind, in addition to some which I have before mentioned, would be, first, its affording a permanent revenue; secondly, its greater security and stability; and, thirdly, the uniformity of its currency, and the better means of providing against losses by counterfeiting.

I am, however, sensible, sir, of the great difficulty of convincing every one, by whose vote it must pass, of the practicability of any new plan of this kind, however perfect and well matured it might be when offered. I am also sensible of the inconvenience of pulling down one system in order to build up another, and of the distress and ruin of individuals it would occasion if it should be done suddenly. I am, therefore, willing to adopt such plan, as, if not the best, shall be thought by a majority the most expedient at present, and leave to futurity the building up of a different system. I shall, therefore, vote for a mere re-incorporation of the present bank, if nothing better can at present be had; and if anything can be added to it, by way of improvement, so as to render it less exceptionable, I will also vote for that.

Perhaps, sir, it might be as well to re-incorporate the present bank for eight or ten years only, and, in the meantime, be making provision for building up another upon a more approved plan.

I conceive, sir, that the advantages of banking depend much upon the manner in which the system is organized. If properly organized, they are undoubtedly a great national benefit; if badly organized, they become a nuisance to community; and some of the banks which were established in the Eastern States are striking instances to illustrate the truth of this remark. Generally speaking, it may be said, that all petty banks are

in danger of becoming such nuisances; because they are but too apt, in the first instance, to be established, and sometimes managed, upon improper, or even dishonest principles. In some instances they have proved mischievous, from the mere ignorance of those by whom they have been managed, of the only true principles on which banks can be safely conducted.

When properly organized, the great and most essential benefit to be derived, consists in the saving of labor, if I may so express myself, in procuring the requisite quantity of gold and silver, to represent all the various articles of wealth in a nation. Suppose, for instance, that a million of inhabitants were to be placed by themselves, without any gold and silver among them, but at the same time with a sufficiency of all the other articles which constitute wealth, they would then require, say five million of dollars for a circulating medium to represent those articles, in order to be enabled to carry on commerce or exchange among themselves; of course five millions worth of their articles of wealth, or, in other words, five millions worth of their labor, must be sent abroad to purchase and bring back this necessary quantity of gold and silver. Now, by the establishment of a banking system, on proper principles, one-half of this hard money would answer their purpose, and thus they would save to themselves two and a half millions worth of their labor, or its products, which they could apply to other purposes.

Now, the territory of the United States will, according to their present ratio of increasing population, in the course of a century, be filled with a hundred million of inhabitants. They will therefore require, say five hundred million of dollars for the necessary circulating medium; at present there is, say forty millions in circulation; of course four hundred and sixty millions worth of the products of their labor must, in the course of a century, go abroad to bring back its value in gold and silver to provide this necessary circulating medium. But if we can establish and perpetuate a safe and durable banking system, only one half of this value in the products of labor need go abroad to bring back the requisite quantity of gold and silver; and thus a gain is, in that time, made to the amount of two hundred and forty millions worth of labor; which would probably be nearly sufficient to make all the canals that may become requisite within our territory. I have made this statement in general terms to show how immensely important it must be to the United States to establish a banking system upon the most durable and best possible plan.

An honorable gentleman from Virginia, on my left, (Mr. BURWELL,) has informed us, if I understood him rightly, that he is, on the whole, opposed to the banking system entirely, because it tends too much to encourage commerce; that we are already too commercial. I am sensible, sir, that, in the Southern States, a prejudice has existed against commerce; and this very prejudice has served to build up a great many houses

in our Northern towns, at the expense of the Southern States; because, if those States, particularly Virginia, had exerted themselves in encouraging commerce to be carried on within their own limits, much of the wealth so rapidly acquired in commercial pursuits, which is now to be found in those towns, might have been amassed in those States. But does that honorable gentleman really believe that, by pulling down this bank, there will be less banking business done in the United States? No, sir, the capital that is now employed in this bank will soon find its way into the State banks. Permit me also to say, sir, that the notion of trying to make ourselves less commercial is idle and visionary—it is the “stuff that dreams are made of.” I admit, sir, that, for the purpose of rendering ourselves less dependent on foreign nations, it might be well to encourage manufactures to a certain degree; but, suppose we should, would we be essentially the less commercial on that account? I trust not. Commerce seems to be congenial to the dispositions of a large portion of our countrymen, and it is vain to attempt to change their habits and pursuits. Indeed, sir, if we will but look at the nations of the world, both of ancient and modern days, we shall find that those who have been most commercial, have ever been the most active, enterprising, intelligent, and free. I consider commerce as one of the great levers by which the world has been raised from darkness into light—from barbarism into civilization and refinement.

An honorable gentleman from Maryland (Mr. McKIM) has given us a statement of the situation of the Bank of the United States, which I will just notice. That gentleman made this bank indebted to somebody, I don't know whom, in the sum of about ten million of dollars.

The gentleman also informed us that he had been a bank director in his time—of course, that he must understand the business.

Presently, however, the worthy, intelligent gentleman began to say something about notes deposited in the bank for discount, to the amount of fifteen million dollars: But these notes, he strenuously contended, were not due to the bank! So much knowledge must, I suppose, have resulted from having been a bank director! I think the gentleman afterward admitted that, if these notes were really due to the bank, it would then, indeed, possess the means of producing a general state of distress, if we should compel it suddenly to wind up its concerns. Exactly so, sir; so far the gentleman was correct.

But, with respect, to the rest of this statement, I shall merely observe that, if a gentleman could make a mistake of fifteen million dollars in half a minute, how far would he probably travel out of the way in half an hour? Why, sir, he would be in danger of becoming one of the antipodes.

Another objection urged against the renewal of the present bank charter is, that a large part of the stockholders are subjects of Great Britain, and that, if we should happen to be at war with that nation, these capitalists would have it in



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their power to injure the best interests of this country.

On the first impression, it struck me that this might possibly be the case; but, on more mature reflection, I cannot see how this could be done, even if those capitalists were so base, and so regardless of their own interests, as to attempt anything of the kind. They have no direct control over the concerns of the bank; it is managed by directors who are citizens of the United States. If any one can, however, point out any effectual method which could be taken by these capitalists, and which it is even remotely probable would be taken, I will then admit that this may be a greater or less objection, not against the re-incorporation of the bank, but against the policy of suffering European capitalists to hold much property in the bank.

Another objection, which has been urged, is that this bank is under the management of those who are, for the most part, opposed in political sentiment to the present Administration.

If I believed that those who manage the concerns of this bank could wield it as a political engine, as was formerly the case, I should be induced to vote against the bill entirely. But, sir, the fact is, this is not the case at present, nor do I conceive it can ever be the case again. So many State banks have been created, that men of all political descriptions can now be accommodated at one bank, or at another; so that the idea of bestowing bank favors, as a reward for political professions, has been long since abandoned. As the English mastiff has, therefore, lost his teeth, he can no longer bite those who are not of his household—and, knowing this, his fierceness has abated—he has become more civil to strangers, and more fit and willing to be made subservient to the wishes of all.

Sir, there is another string, which is yet necessary to be touched, and I shall touch it but lightly, for it is a tender one: It is the distress and ruin which must ensue upon the vote that is about to be given, if that vote shall, as I believe it will, be against the re-incorporation of this bank, in some shape or other. From this distress, sir, probably all of us will be exempt. The storm will pass over us, and we shall only hear it at a distance; yet the individual on whom it shall most heavily fall, will not, on that account, feel it the less sensibly. When I speak of individuals, I mean to express myself emphatically. There are incorporated individuals whose favorite dwellings may yet, by this vote, be shook to pieces over their heads; but as far as any of these may have been instrumental in producing the present state of things, so far will their labors have obtained their just reward. I hope, however, that none of this description, in my own State, have had any agency in this business. But, sir, for those unincorporated individuals who are to be sacrificed by this measure, I feel some commiseration; because, I have some idea of the feelings that a ruined man must experience, particularly if he has a family to be supported by his exertions. It would be easy, because it would be natural, to

draw a picture of this kind of distress; but this is not the only dark side which might be presented—its demoralizing effects ought also to be noticed. By too frequently, and, in this case I may add, wantonly, deranging and prostrating the affairs of individuals, particularly of mercantile men, you naturally encourage in them, from mere motive of self-defence, principles which tend to render them a set of sharpers.

I have heretofore mentioned that there were, at the last session, nearly thirty of a majority for re-incorporating this bank; and among those were two of my honorable colleagues, whom I now find on the other side of the question. It would now seem that there is, probably, a majority against it. How does this happen? I can account for it in part, but not wholly. The Legislatures of some States have undertaken to “instruct” or “request” their several delegations to vote according to their views of the subject. It is generally understood, I believe, sir, that those who may not think proper to listen to this monitory warning, are to be denounced, cast off, and thrown—not into a den of lions—for those animals, though fierce, are somewhat noble in their nature—but into a den with one or two ugly wild beasts—exotics, I believe, sir, who seem to be kept on account of the peculiar facility they possess of besmirching others with their own filth. But, I would ask those who have thus undertaken to instruct and direct members here, how, in God’s name, did they become invested with this controlling power? Were they elected to manage the affairs of this Government? As well might the State delegations to this Government assume to themselves the right of instructing and directing their several State Legislatures how they should act. No dictatorship in this free country, sir! I, for one, protest against it. I hold myself responsible to my constituents only, for the vote I may give on any question; and that vote, which my conscience tells me I ought to give, shall never be controlled by the imposing frowns of any man or set of men whatever.

Sir, if this doctrine is to prevail, that the State delegations are to direct us how we must act, then we shall be in danger of becoming a fallen people. It will go to subvert the purposes for which this Government was established. It will be reducing us to a state which may even prove worse than the old Confederation; for, even under that system of Government, the State Legislatures did not attempt to dictate to Congress, but, on the contrary, Congress used to recommend measures for them to adopt.

My idea, sir, of the best method of getting along with our various concerns, is, for each to mind their own business. I am not so arrogant as to wish to have any control over the opinions or the votes of others; and all that I require in return is, that the same measure of courtesy be dealt out to me.

Sir, I have thought proper, in order to vindicate my own sentiments, and my own independence of feeling, to say thus much. I have little more to say, further than to repeat, that I am op-

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posed to putting down this bank suddenly, and unexpectedly, and in no way whatever, unless it be done gradually, while another, less exceptionable, is rearing up to fill its place. Permit me to add, sir, that it requires much less capacity to pull down than to build up; that I am afraid that some who never can distinguish themselves in the one way, may, in their love of fame, aim at the acquirement of some distinction in the other. I confess I have some little fears on this subject; for I am fully convinced, sir, that if ever this Government shall be prostrated, which God forbid! the work will be accomplished not by Romans, but by the hands of such as those under which Rome sunk and perished.

Mr. TALLMADGE said, although the bill now before the House had undergone a pretty ample discussion, and although he felt almost disqualified from speaking distinctly, from the pressure of a severe cold, yet he could not reconcile it to his sense of duty to permit the question to be taken on the present bill, without submitting a few remarks to the consideration of the House. In doing this, he would endeavor to place the question on its proper basis, divested of any extraneous considerations, by the admission of which some gentlemen appeared to have lost sight of the true merits of the question.

Before I proceed to discuss the bill now before the House (said Mr. T.) I take occasion to remark, some gentleman appear to entertain very limited, and, in my judgment, very incorrect ideas of banking institutions. From some observations which I have listened to, I should suppose that a bank was considered nothing better than a broker's office, in which Jews and money brokers meet to prey upon the community. Others have compared the institution to Pandora's box, from which have issued the principal evils which have afflicted this country. Many similar remarks, equally crude and irrelevant, have been submitted by some gentlemen who wish the dissolution of the Bank of the United States. For the information of such gentlemen, I take occasion to remark, that the use of banks by the principal commercial nations in the civilized world, stamps a value upon the institution, too broad and too well attested, to be questioned at this time.

The Bank of the United States, whose corporate existence we are called on to continue, seems to have been instituted principally for two purposes, (viz.) that of discount and deposit. Under the first, loans and facilities are obtained both by the Government and individuals; and by the last, corporate bodies and individuals are enabled to lodge their money, or other precious treasures, in the vaults of the bank, for safe-keeping, to be withdrawn at pleasure.

It will not be a fair course of reasoning to infer, that because some banks have been used for bad purposes, therefore all must be of pernicious tendency. The abuse of any blessing can never be fairly urged against its use. The great multiplication of banks, by the different States in the Union, proves the sense which the public entertain of their utility. The Bank of North Amer-

ica, which was incorporated in the year 1780, served greatly to invigorate public credit, and unquestionably shed a salutary influence on the measures of that eventful epoch in our Revolution. But I will not enlarge on this point, presuming that few can be found within the sound of my voice, who will question the utility of the Bank of the United States.

The remarks which I propose to submit, will be comprised under the two following general heads:

1. Has Congress a Constitutional power to renew the present charter of the Bank of the United States?

2. Is it expedient, at this time, to permit its charter to expire?

That the field of controversy may be narrowed as much as possible, it may not be improper to consider the points in which all agree; and also the most prominent subjects of debate. I therefore consider the three following points as agreed to by the friends as well as the enemies of the present bill.

1. That Congress have the Constitutional power to make all laws necessary to carry into execution the Constitution of the United States.

2. That banks are among the necessary means to enable the Government to carry on its fiscal arrangements.

3. That no positive injustice can be chargeable upon the Government even if it should refuse to renew the charter of the bank, inasmuch as it will expire by its own limitation.

The points in controversy between us, are the three following:

1. The opposers of the bill on your table assert, that, to renew the charter of the Bank of the United States, Congress must assume a power not warranted by the Constitution.

To this doctrine I enter my solemn protest.

2. They further assert that the State banks are competent to answer all the demands of the General Government in their fiscal operations.

This doctrine I can by no means admit.

3. It has also been asserted, that the Bank of the United States originated with a party; that it has been supported by a party; and must now be decided on party principles.

The two first parts of this proposition I deny, but I fear I shall be constrained to submit to the last.

I come now to the consideration of the Constitutional question, and inasmuch as it embraces consequences very momentous, both to the General Government and to our individual citizens, I hope this honorable House will hear me with candor.

The ground taken by the opposers of the present bill rests upon the 10th article of the amendments to the Constitution, which declares that the powers not delegated to Congress are reserved to the States, &c., and hence an inference is drawn that because no express power can be found delegating the authority to grant incorporations, therefore Congress cannot constitutionally exercise such power. The fallacy of this argument

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may be shown in numberless instances, and from every day's experience in legislation. As a familiar instance, I beg leave to inquire, by what express authority in the Constitution has the Government any power to establish custom-houses, or to appoint officers for the collection of the revenue? And yet the orderly management of the Treasury Department so imperiously demands the exercise of this power, that no doubt has ever been entertained as to its constitutionality.

In defining the powers of Congress, there seems to be a threefold rule given in the Constitution.

1. Positive as to the power granted.
2. Negative on the General Government.
3. Negative on the States.

If gentlemen will turn to the first article of the Constitution, under the 8th section, they will find the powers enumerated which Congress may exercise. Inasmuch as Congress has the power to lay and collect taxes, duties, imposts and excises, so it is also, *provided*, "That they may make all laws which may be necessary and proper for carrying into execution the foregoing powers," &c. Here is the basis on which I am willing to rest the argument, that the Legislature of the United States has the right to incorporate a bank for the purpose of collecting, in the most safe and facile manner, the revenues of the country, as well as of disbursing the same with the least expense and inconvenience to the Government, in any part of the United States where the same should be needful. If it should be conceded, that banking institutions are necessary to the convenient and orderly management of our fiscal concerns, (and I flatter myself this will not be contested,) then shall I consider the Constitutional question nearly settled, unless it can be proved that State banks can be a safe substitute for the Bank of the United States. On this point I shall have occasion to remark hereafter.

In the 9th section, under the 1st article of the Constitution, the exercise of certain powers is prohibited to the General Government, but nothing can there be found touching the present question. It must therefore be included in the amendment before quoted, the explanation already given of which I hope may be satisfactory to this House.

In the 10th section of the same article, the States are prohibited from exercising certain powers. Among other things they are not permitted "to coin money; emit bills of credit; make anything but gold and silver a tender in payment of debts," &c. Although I am not disposed, in this place, to contest the right claimed by the several States to incorporate banks *ad libitum*, yet I have no hesitation in saying that there appears to be a more literal restriction on the State authorities to grant charters to banks, than on the Government of the United States. This construction receives additional confirmation, when it is remembered that, in some States, bank bills have so far been made a legal tender, as to be receivable for State taxes, &c. The inference from these remarks is simply this, that as bank bills are a species of bills of credit, the several States cannot

constitutionally authorize their emission; and as they are the best representative of gold and silver, Congress alone has the power under the Constitution to regulate the same.

In the modern rage for putting down former institutions, we seem to arrogate to ourselves more wisdom than our predecessors possessed. In the preamble to the act establishing the Bank of the United States, among other reasons assigned for the passage of the law, it was deemed that such an institution "would be conducive to the successful conducting of the national finances—would tend to give facility to the obtaining of loans for the use of the Government, on sudden emergencies—and would be productive of considerable advantages to trade and industry in general."

If such an institution was necessary for the operation of the Government then, it is not easy to conceive that it can be less useful now; nor can it be comprehended why a measure should be deemed unconstitutional in the year 1811, which in the year 1791 was pronounced by some of the first sages of our country, with WASHINGTON at their head, not only very beneficial to the Government, but strictly Constitutional. This argument derives no inconsiderable weight from the circumstance, that, under all the successive Administrations of our Government, acts have been passed confirmatory of this principle. The law enacted for the punishment of those who should counterfeit the bills issued by this bank, sanctions the original law; and the laws of the different States, to the same effect, prove that they had no scruples on this point. The loans which have been repeatedly made of this bank, under the sanction of law, greatly corroborate the opinion that the charter was not deemed unconstitutional; and I presume most of the gentlemen who now appear so scrupulous about violating the Constitution, actually voted for the passage of the law of the last session, authorizing the bank to loan several millions of dollars to the Government. Now, if the original law was unconstitutional, the charter is void, and all the operations of the bank must have been illegal. On the same principle, every subsequent law relative to that incorporation must have partaken of its original depravity, being equally unconstitutional. In the year 1804, a law was passed authorizing the bank to establish offices of discount and deposit in the Territories of the United States; under which law the bank was established at New Orleans for the accommodation of the Government, and yet no Constitutional objection was made to this measure, although the Sage of Monticello was then President of the United States.

I cannot dismiss this head of my argument without adverting to the use which some gentlemen have made of the terms *power* and *means*—confounding them together, as of synonymous signification, in the present question. If Congress possess the *power* of collecting and disposing of the revenue, its wisdom must devise the best *means* of effecting the object. In this view of the subject, the creation of a bank must be considered

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among the means necessary for the "successful conducting of the national finances." My own judgment has long been settled on the Constitutional question, and I cannot but hope that a candid consideration of the views in which I have presented the subject to the House, will induce some gentlemen to hesitate, who may have heretofore been fixed in opposition to this bill.

I come now to the consideration of the second general head which I proposed to discuss, viz: the inexpediency of permitting the present charter to expire. In doing this, I will endeavor briefly to state some of the consequences which will probably result from such a measure.

1. A general distrust of bank credit must be the inevitable consequence. As soon as the bills issued from the Bank of the United States shall cease to circulate, the holders of other bank paper will become suspicious of their ultimate payment, and of course will either refuse to receive them in payment of debts, or will send them to their proper banks to receive specie in exchange for them. As evidence of this, I will state to the House that the mere conjecture that such an event may happen, has already begun the call for gold and silver in exchange for bank bills.

2. Such a measure would be distressing, if not destructive to State banks. To prove the truth of this position, I call on gentlemen to examine the report of the Secretary of the Treasury, in which may be seen the amount of notes on hand, issued by the State banks. If these should be presented for payment, nearly the whole of the specie in their vaults would be drawn out, and perhaps some banks might not be able even to meet the demand. The usual export of dollars from this country, for some years past, and the failure of the accustomed imports, have continued greatly to increase this distress.

3. It would be ruinous to individuals. Perhaps a more inauspicious period than the present could not have been selected for the destruction of this moneyed institution. Our mercantile brethren have more than \$20,000,000 locked up at this time in Europe, and unusually large importations of East and West India produce are on hand for exportation. Accommodations must therefore be obtained, or their credit as well as property must be lost. I beg gentlemen to re-examine the Secretary's report, where will be seen the amount of discounts in our principal commercial towns.

I then inquire, Mr. Speaker, whether all the specie in the United States is sufficient to pay up the notes which have been discounted by the Bank of the United States, and which are now on hand? If you should oblige them to wind up their concerns on the 3d of March next, they will be constrained to call in their dues, and as no new loans can be made by this institution after their charter shall expire, so the State banks will be constrained to shorten their discounts, lest their debt should be increased to the Bank of the United States by accommodations to her debtors. In this way the distress will be greatly increased, and

the State banks, being crippled in their operation, will be unable to afford the needed relief.

The bills issued by the Bank of the United States, and now in circulation, exceed five millions of dollars. Let this sum be called out of circulation, and the merchant, the farmer, and the mechanic, will sensibly feel its effects.

4. If this charter should expire, I feel persuaded it must be injurious to the operation of the Government. Of the present regular collection of the revenue I will say nothing, but of the distribution of this money I venture to say that no process through the State banks can be so safe or so expeditious. Suppose that the operations of the Government should require the payment of a million of dollars at New Orleans: Through the agency of the United States' Bank this deposit and payment could be promptly made; but how could this be effected by any State bank? From the very nature of those institutions, the bills issued by the State banks must have a limited circulation, and could not possibly answer on such an emergency. But, if the Government should suffer no inconvenience from the State bank emissions, mercantile men and private citizens must feel the embarrassment very severely. In addition to these considerations, will it be safe for the Government to intrust their funds to moneyed institutions over which they not only have no control, but have not even the power to demand a view of the statement of their business? On this point, I flatter myself there can be but one opinion; and, inasmuch as weekly reports are now made to the Secretary of the Treasury, from the Bank of the United States, the safety of trusting the revenue to this institution, rather than to any other, must be very apparent.

5. It is somewhat questionable, in my mind, whether the honor of the Government will be impeachable if the charter of the bank should not be renewed. I have said before, that in point of strict justice, the Government is not bound to re-charter this bank; but, when I recollect that not many years ago the Secretary of the Treasury sold all the bank stock belonging to the United States (being 2,220 shares) to foreigners, at a premium of 45 per cent., I cannot reconcile it to my ideas of honorable conduct to reduce that stock at once to par. By that operation, the Government raised the sum of \$1,287,600—making a net profit to the Treasury of \$399,600. If the average rate of dividends has been about 8½ per cent. on the nominal capital, it is very manifest that the purchasers of this stock of the Government have not received 6 per cent. on their money, and all the advance paid on the principal must be lost. From the remarks made by some gentlemen, this argument will probably have but little weight; more especially, as the purchasers were Englishmen. But by me the same rule shall be meted out to an Englishman or a Dutchman, to a Frenchman or an American.

Give me leave, Mr. Speaker, in this place to notice a very popular objection to the renewal of this charter, because two-thirds of the stockholders are foreigners. Are not the rights of foreign-

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ers in our own country to be protected as well as those of our own citizens? Is it not enough that by the act of incorporation foreigners are not eligible as directors to manage the funds of this institution? I know it has been urged that foreign capital brought into this country is injurious to the community. With this opinion I do not accord, more especially when placed under the direction and control of our own citizens. But, say some gentlemen, in case of war this influence might be injurious to our country. I should believe the very reverse would be the fact. If it be true that where a man's treasure is, there will his heart be also, then surely it might be useful for any country to have the funds of its enemies to use and improve in the case of a war. Not only would this serve to keep the true owners of the property from being active against us, but it would also serve as the sinews of war to aid us in the contest. So long as the moneyed capital of our citizens can be better employed, let not the policy of this Government be directed against the introduction of foreign capital into the United States.

I will conclude my remarks on this subject, Mr. Speaker, by calling the attention of this honorable House to a few statements taken from the report of the Secretary of the Treasury, which has been laid on all our tables. From this it appears that the amount of bills and notes discounted, and now on hand, exceeds fourteen millions of dollars; of which Philadelphia owes about \$5,000,000 and New York \$4,000,000. If these sums should be demanded, is it possible to find the gold and silver in our country to pay them up? Certainly not. What is then to be done? Either the Bank of the United States must extend the times of payment, or the State banks must afford their aid. It is questionable how far it would be safe for the bank to proceed in the first case, and in the last—it has been shown, that if the State banks should afford the needed accommodation, their own ruin would be sealed. By a report lately made to the Legislature of Pennsylvania, (which I hold in my hand,) it would seem that the amount of all the specie in their State banks, did not much exceed one million of dollars.

What is the state of the specie capital in the city of New York? If pretty correct information may be relied on, all the State banks in that city cannot produce half a million of dollars. It is then utterly impossible, with all the specie in those two large cities, to pay up the demands of the United States' Bank upon the citizens; and if gentlemen suppose that no distress would ensue from so sudden a pressure upon the citizens, they must have data on which to found an opinion with which I am wholly unacquainted.

As a further evidence of the real diminution of specie in our country, I would state that in January, 1810, there was in the vaults of the Bank of the United States, and its branches, \$9,051,704, and in December following, there was only \$5,482,879—making a diminution in eleven months of \$3,568,825. In the same month of January,

the State banks owed the Bank of the United States \$579,653, and in December following, the sum was increased to \$1,546,027. If you add the difference (which is near one million of dollars) to the amount in the vaults of the United States' Bank and its branches in December, the diminution of specie in about eleven months will be found to be about \$2,600,000. This alarming diminution of the precious metals ought to have some weight with this House in deciding on the present question, that the pressure may not be increased upon the community.

Notwithstanding my full conviction that it will be highly impolitic, as well as peculiarly distressing to the people of the United States, to reject the bill now before the House, and thereby permit the charter of the bank to expire, yet I must confess I am not without my fears, that such is to be the fate of this institution. It can never be sufficiently deplored, that the feelings of party should have ever influenced the measures of this Government. When this prevails, we must expect that rash and impolitic measures will be adopted. On the present occasion, a leading member in opposition to this bill (Mr. EPPEs) has declared his belief, that the bill now under consideration was purely a party question, and would be decided accordingly. If this is the case, the fate of the bank is fixed; and on this ground alone can I account for that peculiar apathy and unconcern which is exhibited, when the evils to be apprehended from a non-renewal of the charter have been so forcibly exhibited to Congress, in the numerous petitions which have been presented. But when I further reflect, that agents are known to be within these walls, who are already fattening on the prospect that the State banks which they represent are to receive deposits of the Government arising from the collection of the revenue, I fear my feeble attempts to arrest the progress of this desolating spirit will be of no avail.

Mr. GARDENIER spoke against indefinite postponement. At about five o'clock, a motion was made to adjourn, and lost, by yeas and nays—60 to 55.

Several gentlemen rose to speak.

Mr. MACON remonstrated against a night sitting, as a denial to gentlemen of an opportunity of expressing their sentiments, and as derogating, by the confusion always attending such a scene, from the dignity of the House.

Mr. RANDOLPH made a few remarks of the same tenor; reprobated the want of order which appeared to prevail in the House, stated his own unfitness, from fatigue, to undergo a night's sitting; asked of the House, as a favor, that they should adjourn; and concluded by a motion to that effect, which was carried.

THURSDAY, January 24.

A new member, to wit: from South Carolina, LANGDON CHEVES, elected to supply the vacancy occasioned by the resignation of Robert Marion, appeared, was qualified, and took his seat.

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Mr. MORROW, from the Committee on the Public Lands, presented a bill providing for the sale of a tract of land lying in the State of Tennessee, and a tract of land in the Indiana Territory; which was twice read, and committed to a Committee of the Whole on Monday next.

Mr. CLAY, from the committee appointed, on the seventeenth instant, on the petition of Arthur St. Clair, made a report thereon; which was read, and referred to a Committee of the Whole to-morrow.

Mr. CLAY, from the same committee, also made a report on the petition of John Craig, referred on the eighteenth instant; which was read, and referred to the Committee of the Whole last mentioned. The report is as follows:

The committee, to whom was referred the petition of John Craig, have had the same under consideration, and report: That it appears to them that the said petitioner took an early and decided part in the defence of the liberties of his country; that, in 1775, he entered the service of his country, in the Revolutionary army, in which he continued until the close of the war; that he served in different grades, but was, in the month of December, 1778, promoted to the rank of Captain of light dragoons in the Pennsylvania line, which rank he held until the close of the war; and that he was in active service through the whole of the war: when he left the service of his country, his constitution was much impaired and injured; he was without the use of his third finger on the right hand, which was so contracted as to render that hand and arm an encumbrance; notwithstanding, he forebore to apply to his country for relief; but being now bowed down with old age and infirmity, and being poor, and almost helpless, he is compelled to throw himself upon the charity and humanity of his country. The committee deem this one of those hard cases which is not provided for by law; they, nevertheless, are of opinion, that it is one of those cases which will justify a departure from the strict rules of law and practice, and do, therefore, submit the following resolution:

*Resolved*, That the accounting officer at the Treasury be directed to pay Captain John Craig one thousand dollars.

Mr. JENNINGS presented a resolution of the Legislature of the Indiana Territory, instructing him, as the Delegate from that Territory in the Congress of the United States, to use his utmost endeavors to obtain an extension of the right of voting to all citizens thereof of the age of twenty-one years and upwards.—Referred to Mr. RANDOLPH, Mr. JENNINGS, and Mr. GARDENIER.

A message from the Senate informed the House that the Senate have passed two bills, to wit: "An act authorizing the discharge of Nathaniel F. Fosdick from his imprisonment;" and "an act for the relief William Mills;" to which bills they desire the concurrence of this House.

#### TREASURY REPORT.

A communication was read from the Secretary of the Treasury, made in conformity to a resolution of the House, requiring information as to the directors, the shareholders of the United States' Bank, and the moneys deposited in it, as follows:

TREASURY DEPARTMENT,  
January 23, 1811.

SIR: I have the honor to transmit a report prepared in obedience to the resolution of the House of Representatives of the 16th instant.

I have the honor to be, &c.

ALBERT GALLATIN.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the 16th instant, respectfully submits the following report:

The Secretary of the Treasury is directed, by the resolution aforesaid, to lay before the House,

1st. A list of the Directors of the Bank of the United States and of its several branches;

2dly. A statement of the stock held, by foreigners, and in what countries; and of the stock held by citizens, and in what States and Territories;

3dly. The amount of specie, according to the last returns, in the vaults of the bank, distinguishing the part which belongs to the bank; the portion belonging to individuals, and to the United States.

It is enacted by the sixteenth provision of the seventh section of the act to incorporate the subscribers to the Bank of the United States, that "the officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation; and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statements; provided that this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the Bank."

No other but general statements, such as are enumerated in that clause of the act, can be required by the Secretary of the Treasury, or have been furnished by the bank. And these include neither the names of directors, nor the names or place of residence of the stockholders.

On the subject of Directors, no statement whatever is ever made; and in relation to the capital stock, its gross amount, and the portion allowed to each bank, are the only particulars which can be required, or are exhibited in the statements transmitted to this office. It was ascertained some years ago, from an authentic source, that near three-fourths of the stock (about one thousand eight hundred shares) were held by foreigners; and the fact, though not officially communicated to the department, was stated in the report respecting the bank made to the Senate on the 2d day of March, 1809. No subsequent or other information has been obtained on that subject; and, with very few exceptions, the names of the directors and stockholders, either abroad or in the United States, are unknown to the Secretary.

The specie in the vaults of the bank and its branches amounted, according to the last returns, to \$5,009,567, the whole of which was, strictly speaking, the property of the bank; and, together with the debts due to that body, constituted the fund from which its own debts, including both bank notes and deposits, must be paid. The sum deposited by the Treasury into the bank and its branches, amounted, by the last return of

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the Treasurer, dated 21st instant, and marked (A.) herewith transmitted, to \$1,930,000, and that deposited in other banks, to \$875,462, making together with the balance in the Treasury on that day, \$2,805,462. The total amount of deposits by Government, by other banks, and by individuals, into the Bank of the United States and its branches, appears, by the last received returns, to be \$8,464,770. And the statement B3., herewith transmitted, and extracted from the latest returns received at this office from the bank, and from the Treasurer, exhibits a general view of the situation of the bank, and of all the objects embraced by the third part of the resolution of the House.

It appears from these that the debts due by the bank and payable on demand, including both every species of deposits and bank notes, amount to \$13,673,369. And that the resources of the bank to meet those demands consist of the following items, viz: 1st. Specie, bank notes of other banks, and balance due in account by other banks, payable to the bank on demand, (including also \$25,804 in funded debt and drafts on collectors, which may be considered as specie) - - - - - 6,322,875

2. Loan to the United States, payable on giving three months' notice - - - - - 2,750,000

3. Notes discounted at 60 days, and due by individuals (including \$31,242 overdrawn in Charleston) - - - - - 14,609,537

Making an aggregate of - - - - - 23,682,394

The act to incorporate the subscribers to the Bank of the United States does not itself expire by any positive clause of limitation; but it is enacted by the third section of the act that the subscribers shall be a corporation and body politic, and so continue until the 4th day of March, 1811. It is presumed that some means will be devised, either by Government or by the bank, whereby the debts due to and from the corporation may be collected after that day. So far as relates to the Treasury deposits, no inconvenience can arise, as, in any event, the loan obtained from the institution is a sufficient pledge for their payment. But a doubt may arise, from the manner in which the act is expressed, whether, under the tenth section, the bank notes still in circulation will not continue to be receivable in all payments to the United States. The propriety of some provision which may remove every doubt on the subject, or otherwise prevent the inconvenience resulting from that construction of the act, is respectfully suggested.

All of which is respectfully submitted,

ALBERT GALLATIN.

A.

TREASURY OF THE UNITED STATES,  
January 21, 1811.

*Cash in the different Banks and Offices of Discount and Deposit.*

Bank of the United States	- - -	\$392,909 24
Bank of Columbia	- - -	115,192 92
Bank of Alexandria	- - -	61,917 90
Bank of Newport	- - -	35,788 55
Bank of Pittsburg	- - -	137,442 11
Bank Roger Williams	- - -	53,882 79
Bank of Pennsylvania	- - -	92,628 17
Bank of Manhattan	- - -	189,670 32
Bank of Saco	- - -	28,528 94

Bank of Maine	- - - - -	50,747 58
Bank of Marietta	- - - - -	19,601 62
Bank of Kentucky	- - - - -	91,061 53
Office of Discount and Deposit, Washington	- - - - -	101,895 55
Office of Discount and Deposit, Norfolk	- - - - -	16,483 76
Office of Discount and Deposit, Boston	- - - - -	341,054 47
Office of Discount and Deposit, New York	- - - - -	625,417 09
Office of Discount and Deposit, Baltimore	- - - - -	199,201 28
Office of Discount and Deposit, Charleston	- - - - -	36,645 03
Office of Discount and Deposit, Savannah	- - - - -	49,691 63
Office of Discount and Deposit, New Orleans	- - - - -	166,701 03
		<u>2,805,462 03</u>

THOMAS T. TUCKER,  
*Treasurer of the United States.*

B.—3.

*General state of the Bank of the United States and its branches.*

Discounts	- - - - -	\$14,578,294 26
Loans to United States	2,750,000 00	
Funded debt	14,338 00	
Overdrawn by the Commissioner of Loans, Charleston	31,242 48	
Treasury drafts not yet collected	11,466 01	
		<u>2,807,046 49</u>
Due by other banks in account	894,144 77	
Notes of other banks on hand	393,341 15	
		<u>1,287,485 92</u>
Specie	- - - - -	5,009,567 10
Real estate	- - - - -	500,052 77
		<u>24,183,046 54</u>

Capital stock	- - - - -	\$10,000,000 00
Notes in circulation	5,037,125 22	
Deposites by Government	1,929,999 60	
Deposites by banks	634,448 01	
Deposites by individuals	5,900,422 83	
		<u>8,464,770 44</u>

Balance of outstanding drafts on bank and branches	- - - - -	171,473 17
		<u>13,672,363 83</u>

Undivided surplus applicable to last dividend, and to cover losses on buildings and debts	- - - - -	509,677 71
		<u>24,183,046 54</u>

Mr. FISK moved to have this communication printed.

This motion was opposed by Mr. EPPES and

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Mr. WRIGHT, as, if the papers were sent to the printer, the House would not have the benefit of them in the discussion of the subject of the bank, which would be continued this day. The motion for printing was lost—42 to 55.

#### BANK OF THE UNITED STATES.

The House resumed the consideration of the unfinished business of yesterday, and the question depending at the time of adjournment, to wit: the indefinite postponement of the order of the day on the bill to continue, for a further time, the charter of the Bank of the United States, was again stated.

Mr. EPPES said that he apprehended the few remarks he had to offer to the House, would not be considered as well-timed after the funeral oration had been pronounced over the expiring charter of the United States' Bank. He would trespass but a short time on the patience of the House, and confine his remarks to the policy of renewing the charter, viewed only as a national measure. He considered it unnecessary to say anything on the Constitutional question. If ever the theory of persons who believe that political principles may be demonstrated with mathematical certainty shall be realized, and a political Euclid be published, I would put for the first proposition these principles:

1. That all power not delegated is reserved to the States or to the people.

2. That the power to incorporate a bank is neither delegated nor essentially necessary for carrying into effect any delegated power. For the demonstration, I would insert the speech of a gentleman from New York, (Mr. PORTER,) who has combined, in a masterly manner, on this subject, the purest principles and most luminous elucidation. Passing over, therefore, this part of the question, I shall confine myself to such observations as will tend to show that the renewal of the charter is not necessary for the prosperity of agriculture and commerce, as has been stated, that the union of a moneyed institution with a Government, possessing the power of war and peace, is dangerous to Republican institutions; that the dissolution of the charter will produce no injury to the public or to individuals; that the same principles which induced the Republican party, in the year 1790, to oppose the incorporation of this bank, ought to prevent the renewal of the charter at the present time. In examining the first of these questions, viz: the operation of the dissolution of the charter on agriculture and commerce, I will not trouble the House with any general observations on the subject of banks. Their tendency to facilitate commerce, so long as their circulation of paper rests on specie, or floating capital, cannot, perhaps, be denied, inasmuch as it is easier to circulate paper, which represents specie, or floating capital, than the specie or capital itself. Every paper circulation, however, not founded on specie or circulating capital, is dangerous to the community. A particular, specified object, say agriculture or commerce, can only employ a certain capital. An increase of circu-

lating medium, above the sum necessary for a particular object, must produce one of two effects, either to depreciate the medium, be it specie or paper, or to drive it into new channels. These are plain, obvious principles, which no gentleman will, I presume, deny. Let me ask, then, 1st. What amount of paper medium can, with safety, be employed in the commerce of the United States? 2. What amount can be put into circulation by the present existing banks, independent of the United States' Bank? The real basis of a safe paper circulation, so far as it respects commerce, is the productive labor of a community above its consumption. What a nation does not consume it exports. No paper circulation, therefore, can, with safety, be extended beyond the amount of the exports of a nation. Indeed, it ought not to exceed in amount the domestic exports which constitute the only certain part of the productive labor of the community, so far as respects its commerce. The export of foreign articles depends so much on circumstances, over which we have no control, that a paper currency, which rested for redemption on that, would be liable, whenever commerce was interrupted, to produce general ruin and bankruptcy. The domestic exports of the United States may be considered in value as equal to forty millions of dollars. The export of foreign articles, in the year 1807, was near sixty millions of dollars. This great export of foreign articles was produced by particular circumstances which no longer exist. During favorable years, viz: 1803, 1804, 1805, the export of foreign and domestic articles averaged seventy-six millions of dollars; so that it would appear, taking the domestic and foreign exports as the real amount of capital which can be employed in commerce, an ability to circulate seventy-six millions of dollars of paper, is sufficient for all commercial purposes.

The Bank of the United States, with a capital of ten millions of dollars, has put into circulation, in credit and notes, nineteen millions of dollars; fourteen millions of dollars in accommodation credit, exclusive of mortgages and bonds, and constituting active circulating medium, and five millions in notes. As a moneyed institution, it is admitted that their affairs have been well managed. Other banks, therefore, may circulate to the same amount, in proportion to their capital.

The bank capital of the United States, exclusive of the United States' Bank, is \$50,000,000; five times the capital of the United States' Bank; of course, supposing them to manage their affairs as well, they can put into circulation, in credit and notes, five times the amount put into circulation by the United States' Bank; five times nineteen millions of dollars is ninety-five millions of dollars. This sum, sir, is fifty-five millions of dollars above our domestic exports; forty-five millions above our consumption; nineteen millions above our whole export, domestic and foreign, in favorable years; twenty-six millions above the present export of domestic and foreign articles.

Can any gentleman, on this statement, believe



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we want ability to circulate a paper medium for commercial purposes? Our export of foreign articles, from the peculiar situation of the world, has almost disappeared. Our merchants are more in want of a field to exercise their capital than of capital itself. It is a fact, which cannot be denied, that we have at present a surplus capital, which cannot be employed in commerce; and that the paper circulation is increasing in a ratio neither proportioned to our population, consumption, nor wealth. I have confined my observations entirely to the view of a capital, such as is necessary for commerce. No gentleman has advocated the renewal of the charter for the purpose of creating a capital for internal improvement. This appears, by general consent, to have been considered as more properly within the sphere of the several State Legislatures. At the time this charter was originally granted, the situation of the United States was very different from what it now is; but three banks existed, with a capital of less than three millions of dollars; our exports amounted to less than nineteen millions. Our commerce languished for want of a circulating medium; we are now in danger of suffering from a paper currency, resting on no solid basis, and liable, with a reverse of fortune, to recoil on ourselves. I cannot, therefore, consider the renewal of the charter, viewed only as a measure of general policy, necessary for the creating capital for purposes of commerce.

But, sir, said Mr. E., I object to the union of a moneyed institution with a Government, as dangerous to Republican principles. Next to frequent elections, the great security in every country, against arbitrary power, is the dependence of the Government on the great body of the people for supplies. Hence the objections to a revenue dependent on loans, indirect taxes, &c. Money has been aptly termed the sinews of war. It may, with equal propriety, be termed the sinews of oppression and usurpation. The facility of commanding large sums by means of a moneyed capital, dependent on the Government, is calculated to destroy the dependence of the Government on the people. If we look at the history of England we shall find that their short period of liberty was while the King was dependent on the Commons for supplies. The creation of a great moneyed capital in that country, under the control of the Government, has totally destroyed that valuable feature in the English constitution. It has created a body of men who contribute to the prodigality of the Government, who furnish the means and share in the spoils of the nation. The history of the Bank of England, and of its paper system, is one which ought to warn the friends of freedom against the danger of a union between a Government and paper capitalists. This species of capital, which scarcely knows a limit, is dangerous to the freedom of a country, without being nourished by the fostering hand of Government. Unite the two; give to a Government, by means of a paper system, a power to supply its wants without a recurrence to the people, and you unite the most formidable engines of oppres-

sion, power, and means. It is this system which has caused the British Government, after mortgaging, from year to year, its revenues to the bank, to accumulate a national debt, to the enormous amount of six hundred and seventy millions of pounds sterling. The average quarterly advances of the Bank of England to the Government, in the year 1797, was four times the whole amount discounted for individuals. From these extraordinary advances, produced by the union of the Government and the bank, it must have failed in the year 1797, but for the interposition of Parliament. On the 26th day of February, 1797, the cash and bullion in the bank amounted to £1,272,000—average notes in circulation to £8,640,250—bills discounted to £2,905,000—advances to Government to £10,672,490. From the report of the committee appointed by Parliament, in February, 1797, to examine into the state of the bank, it appeared that the debts of the bank amounted to £13,770,390—that its assets exclusive of the permanent debt from the Government, (and what these assets were does not appear,) amounted to £17,597,298—leaving in favor of the bank, £3,826,903. This sum of £17,597,298, consisting of debts and assets, was not sufficient to meet their cash debts, amounting to 13,770,390 pounds. At this time the permanent debt due from the Government to the bank, amounted to £11,686,800—almost four times the whole sum left in the bank after payment of its debts. The funds of the bank, being in the hands of the Government, the Government unable to pay, kindly interposed to save the bank from ruin, and made their paper a tender. This, sir, was one of the blessings produced by a union between the Government and the bank.

But, sir, many gentlemen have exercised their ingenuity in portraying the ruin which must fall on individuals, and the injury which must be sustained by the public, from a dissolution of the charter. From the statement, just laid on our table from the Treasury Department, it appears that the stockholders of the bank are in more danger than the community.

From that statement we find that the debts due by the bank, and payable on demand, amount to

To meet this debt the bank has on hand, in cash	5,009,567
Notes and debts due from other banks	1,313,350

Making, in all, their cash funds amount to	\$6,382,517
Deducting this sum of \$6,332,512, which may be considered their cash fund, from the \$12,573,369, the amount of their debts, and it will be \$7,350,512, for the payment of which they must depend on their debtors, and make this payment out of the \$14,609,537 due from individuals. So far, therefore, from pressing the community, it appears they must collect \$7,350,512, and apply, in addition to it, their whole cash funds, or fail in their engagements. But, sir, I will state it in another	

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way. According to the principles of banking, the profit is, annually or quarterly, divided; of course, the company, on winding up its affairs, can only withdraw its capital, viz: \$10,000,000

Of this capital they have in hand,	
in cash - - - - -	5,009,567
In notes and debts due by other banks - - - - -	1,313,857
In a debt from the United States - - - - -	2,750,000
In houses - - - - -	500,000
In debts in suit - - - - -	154,164
In bonds and mortgages - - - - -	221,000
In stock of the United States - - - - -	20,000
Total - - - - -	\$9,968,588

This, sir, amounts very nearly to their stock, and if they reserve their cash on hand as part of that stock, and meet the payment of their debts with the debt due to them, they have nothing to draw from the community, which can produce the slightest pressure. They may find difficulty in collecting a sufficient sum to meet their own engagements, as, from the moment of the dissolution of their charter, their debts will stand on the same footing with any other company winding up its affairs, and must be collected in the same manner.

Much stress, sir, has also been laid on the necessity of the bank for the management of the finances of the United States. We are told that a complete control is given, by the Constitution, over the finances, and that a bank is necessary for their management. The term finance is not to be found in the Constitution. The bank is not necessary for the collection of taxes, or imposts, or for paying the debts, to use the language of the Constitution. It has never been used for the collection of taxes. For the collection of duties it is used only in a limited way. We have upward of eighty-five places for the collecting duties, and only nine branch banks. It is used for the payment of the interest of the debt only in consequence of a Treasury regulation. Commissioners of Loans within the several States are even at this time established by law for paying the interest on the debt. The bank, therefore, is not essential for this object. The great payments for the Army and Navy are not at present made at bank—paymasters and pursers discharge this duty. All payments on account of the civil list are made at bank, but the greater portion of these are at the seat of Government. A bank is, therefore, not essential for making these payments. Until new arrangements are made, temporary inconvenience may be sustained by the Government. The mere change of agents generally in moneyed transactions must produce inconvenience. The inconvenience, however, will be temporary, and does not deserve consideration in a case involving the Constitution.

I will close my remarks with a few observations tending to show that the same principles which induced the Republican party, in 1790, to oppose the incorporation of the bank, ought to

prevent a renewal of the charter. In a free country there is nothing more important than a recurrence to those fundamental principles which unite, in one common band, those who grant power and those who exercise it. The peculiar organization of the Government of the United States combines in a single charter powers administered by men deriving their authority from two separate and distinct sources, the people and the States. The weakness of the old Confederation, which, although armed with general powers, was found unequal to giving a practical operation to those powers, produced the Federal Constitution. This charter, the offspring of compromise, was considered in the Convention by one party as too weak to accomplish its objects—by the other as sufficiently strong to endanger the liberty of the citizen. These two principles were soon manifested in the administration of the present Federal Constitution. Those who thought it too strong gave to the Constitution a rigid construction, and opposed constructive powers. These were termed anti-Federalists. Those who thought it too weak, were disposed to ingraft vigor on it by construction, and contended for constructive powers. These were termed Federalists. The eclat which attended the adoption of the Constitution threw the Government exclusively into the hands of the Federalists. The great popularity of General WASHINGTON, on whose brow grew in full vigor the laurels of the Revolution, balanced, for a time, these two contending parties. With the same manly firmness, as during the Revolution, he stemmed the torrent, and attaching himself exclusively to what he deemed the interests of his country, administered the Constitution according to its true principles. He commenced his career as President on the 30th of August, 1789. In 1791, the charter of the bank was granted. On this great measure the two great parties were, for the first time, arrayed against each other. It was at that time considered a party question, inasmuch as it involved the very principles on which the parties divided, viz: “delegated powers” and “constructive” powers. Unfortunately for his country, General WASHINGTON, on this occasion, took side with the Federalists. The creation of a moneyed interest, connected with the Government, was a favorite measure of those who were willing to ingraft energy on the Constitution, and was warmly opposed by the party unwilling to add, by construction, the extraneous aid of a moneyed capital, to a charter considered, on a fair construction, sufficiently energetic. The defeat of General St. Clair took place in the November following the establishment of the bank, and the subsequent disasters of the Indian war, by increasing the wants of the Government, drew more closely the ties of connexion between the Federal party and the bank. Through all the periods of the Federal Administration, this moneyed capital was their shield and their sword. It extended their influence and secured the approbation of most of the large commercial cities in the Union. When this bank was established, but three banks

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existed in the United States, with a capital of two million one hundred thousand dollars. The creation of a bank, with a capital of ten millions of dollars, almost five times the capital of all the existing banks of the Union, under the patronage of the General Government, was calculated to produce and did produce a subserviency on the part of the stockholders to the views of their party. The influence of this powerful moneyed capital was long felt. Nothing but the multiplication of State banks, and the increase of capital from the peculiar and fortunate circumstances under which the United States were placed, could have emancipated us from the shackles imposed on us by a moneyed institution wielded by foreigners. I rejoice that the period has arrived, when this privileged class must surrender its charter—when the moneyed capital of our country shall no longer be wielded as an engine of party—when the Republican party shall have an opportunity of testing the truth of the principles for which they contended in the year 1790, and of giving on the present, as on the former occasion, their support to the principle, “That power not delegated is reserved to the States or to the people.”

MR. STANLEY.—Mr. Speaker: After the able discussion which this subject has already undergone, I should not have asked your attention, but for the observations of the gentleman from Virginia, (Mr. EPPES,) who has last addressed you. That gentleman, with a view to justify such a decision of the question as he desires, has advanced propositions which are in themselves so incorrect, and supported them by arguments so palpably unreasonable, that I shall trouble the House a short time in reply.

The gentleman tells us it is as true as any mathematical axiom, that a power not expressly granted by the Constitution to the Federal Government cannot be exercised by that Government; that whenever a political Euclid shall be composed; this principle should be placed as first in clearness and importance; and the speech of the gentleman from New York, (Mr. PORTER,) on the bill before us, should be added as an appendix or commentary proving its truth. In terms, sir, the gentleman's proposition is true, but the gentleman has not avoided the error of those who have preceded him on that side of the question; he confounds the powers of the Federal Government with the means of executing such powers; he does not distinguish between the objects of the Federal compact and the means of effecting these objects. And upon this hinge of error did the argument of the gentleman from New York turn. This confusion of terms, this indistinctness of perception, as I shall endeavor to show, has led gentlemen astray on this question. If, sir, the political errors of the statesmen of this day shall ever be collected into a volume, as the first, the most glaringly wrong, and flagrantly unjust, should be placed the axiom of the gentleman from Virginia, which cannot, in substance, be other than this: “That no means of executing a power granted to the Federal Government,

can be employed by that Government, unless such means be found expressly pointed out in the Constitution. And, sir, to show how truth may be obscured, and error supported, by ingenuity, my respect for the gentleman from New York forbids my saying by sophistry, I will append, as a commentary, the speech of that gentleman on this question.

With respect to the Constitutional right of Congress to incorporate a bank for the prosperous administration of its finances, the very able arguments already made, and in my apprehension very imperfectly met, require little to be said in its support. My view of this part of the subject shall, therefore, be brief, and I may be pardoned for offering it. To incorporate a company, in other words to grant to certain persons a legal or artificial capacity, distinct from their natural, is an act of sovereignty, a delegation of which it is true can only emanate from the sovereign power. If the Federal Government be not sovereign as to any of its objects, they cannot incorporate a company for the attainment of any of its objects. But, if, on the other hand, the Government is sovereign as to any object, the power to incorporate companies, as the fit and necessary means for the attainment of that object, must regularly result from and be appurtenant to this sovereignty. This power is not left to inference; the Constitution expressly declares that Congress shall have power to make all laws necessary and proper to carry into effect the powers delegated, and that such laws shall be the supreme law of the land.

The Constitution, it is true, does not, in terms, give the power to incorporate a bank—that instrument details only the objects of the Government, and delegates certain general authorities to effectuate the ends for which it was formed. In every case it is silent as to the particular means to be employed or the mode to be observed in the attainment of the object or end. Instead of attempting to specify in any case the means of executing a power, it is silent in that particular in every case, granting to Congress the general power, I have just stated, to make all laws necessary and proper to carry into effect the delegated powers. Among the general powers expressly granted, is this—“To lay and collect taxes, to borrow money, to pay the debts and provide for the general welfare of the Union.” What wisdom first suggested, the experience of twenty years has confirmed, that a bank is not only a fit but the most useful means of collecting the revenue of the United States. It has been found the readiest and most certain resource from which to obtain and on which to rely for loans to Government; and through its aid, moneys for public necessities have been safely, speedily, and without charge placed at the command of Government in every part of the Union. The agency of this institution, thus continually employed, places its utility and expediency beyond question. I consider it, therefore, as “proper,” because it is well adapted to its object; as “necessary,” because if not the only, it is certainly the best

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means that can be devised to obtain its ends; and being both "necessary and proper" to carry into effect the power expressly granted to Congress, "to collect taxes, to borrow money and pay the debts"—it must be Constitutional.

But, sir, the gentleman from New York says, the United States are not sovereign, and cannot exercise a right of sovereignty, because they depend on the will of the States for existence; for, said he, should the States neglect or refuse to elect Senators or to make the laws necessary for electing representatives, the Federal Government would die of its own imbecility. This may be true: the Government may cease to exist, yet, while it does exist, there are powers which it alone can exercise without the control or interference of any other authority. To these purposes, assuredly, then it must be supreme, or sovereign. For example, the Federal Government has power to lay and collect taxes and to regulate commerce. Is there any power in this country—I speak of moral, not physical power—which can prevent them laying such taxes and making such regulations of commerce as they think fit? The Constitution of the United States is the act, of "We, the people of the United States." So are the State constitutions—both are derived from the same source—each is independent of the other, and only dependent on the sovereign will of the people, constitutionally expressed. The States have certain powers exclusively confided to them; they may prescribe the descents of estates, and regulate distribution of property and other objects of internal police; they are sovereign as to these objects; the Federal Government is as much so as to the objects within the sphere of its jurisdiction. Yet, Mr. Speaker, obvious, indeed indispensable as is the inference and deduction of the right to incorporate a bank for the management of the financial concerns of the United States, from these premises, gentlemen say it is only an implied power, that no power can be used unless expressly granted in the Constitution, and the exercise of implied powers is deprecated as unknown to the Constitution, and abhorrent to Republicanism, and dangerous to our liberties. Let me ask gentlemen, and I pray they will inform me, whether they do not daily act upon implied powers? If not, let them speak, in what part of the Constitution do they find power to build light-houses? Where is the power which their President, doubtless with the feelings of a man and the firmness of a magistrate, so freely exercises of removing at pleasure from office men who were appointed with the consent of the Senate? You have committees now sitting, who, under your authority, but without law, compel citizens to attend at their summons, without consulting their will or convenience; you have conferred on certain individuals the sole privilege of trading with the Indian tribes—by what authority are all these, and many other acts which have been mentioned in this debate, exercised? If I am answered at all, truth will dictate this reply: the power to do these acts is no where expressly granted

in the Constitution; the authority results from the powers granted, and are necessarily implied as the fit and necessary means of executing the powers which are expressly granted. Yes, sir, whether I am answered or not, the fact is manifest, that the implied powers of the Government are not only fairly deducible from the spirit and letter of the Constitution, but are essential to the most familiar operations of Congress. And, sir, it is in proof that gentlemen are in the daily habit of exercising, without scruple or reserve, those implied powers, which, when urged in support of the bank, they turn from with affected abhorrence, as if a single glance, like a look at Medusa's head, would turn them into stone! They have repeatedly acted under them, still grasp them with the love of power and the ardor of ambition, and will only suit their hold to that force which shall deprive them of the reins of empire.

The gentleman from Virginia deprecates a bank which shall be connected with the Government; he calls this a dangerous union of the sword and the purse, reminds us of the abuse by the British Government of the Bank of England in obtaining loans, and of the public debt of that Kingdom. None of those objections apply to the Bank of the United States. The charter of the present bank places the institution beyond the control of the Government. It is bound to accommodate the Government with loans to a limited amount when required; but this obligation on the bank, although its performance may at times chance to be unfavorable to the institution, is yet connected with no danger to the country, since the one cannot lend, until we, the representatives of the people have authorized the other to borrow. The Executive of the United States is said to bear the sword, but, sir, Congress holds the purse, and it has not been explained to us how the existence of a bank is to render one subservient to the other, or to convey the sword and purse into the same hand. I can, however, conceive a plan of a bank which would sharpen the sword of the Executive and give a power to his arm that might be used to the ruin or degradation of our citizens. Adopt the plan which has been recommended, and which is to rise upon the ruins of the present institution; erect one great bank whose branches shall embrace all the States and whose capital shall swallow all the State banks, give to the Administration the enormous patronage of the appointment of directors to this institution, and place the credit and business of every man connected of necessity with banks at the mercy or pleasure of an Executive or his minions,—the commercial and the enterprising must decide either to become flatterers and be favored, or to retain their independence and be ruined. It is this system which would give a dangerous, a detestable power. Your Administration, styling themselves Republican, have professed to desire no patronage: I will take them at their word; my vote shall never increase their patronage, to multiply their dependants. The Crown, which they profess to put away, I will not force upon their brow.

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As to the Bank of England and the British debt, I perceive not the bearing their connexion can have on the subject before us. That the British Government have made too free use of the ability of the bank to lend, cannot expose us to like mischiefs, because our bank cannot lend, nor our Administration borrow, but by the express authority of Congress. Of the British debt, I know its amount is enormous. Yet, sir, how, and for what purpose, has that debt been thus swollen? Perhaps the people of Great Britain owe to that debt the preservation and enjoyment of rights dearer to freemen than their purse. It is, sir, at the cost of that debt that Great Britain maintains her existence, and independence as a nation. She might have submitted without an effort, without expense, and, free from debt, have sunk under the chains which the tyrant of France, the enemy of the human race, has fastened upon all the kingdoms of continental Europe. Rather than see my country bow in subjection to that direst of despotisms against which Great Britain has struggled, I would, in the spirit of an American, cheerfully bear my share of a debt as large as that which has been the subject of remark.

The gentlemen tell us we have sufficient bank capital without that of the Bank of the United States; that the capital of the State banks is equal to the wants of the United States, and that, if this institution is continued, there will be an excess of paper, and the consequent mischiefs to the country. Sir, gentlemen need not feel alarm on this point. There is no more danger of a surplus of capital being employed in banks, than of such surplus being employed in any other business. The thing regulates itself. Bank notes may be emitted beyond the use of the country, but you can no more force them into circulation beyond this necessity, than you can force purchases and sales of tobacco and flour beyond the consumption of a country. The commerce of every country requires a certain sum of circulating medium. The amount must be ascertained by experience, which alone can show how much it will absorb and employ. If you emit paper beyond this amount it will, of necessity, return upon the banks. This discovery is not modern. It is as old as the science of banking. And of the errors of a bank, no one is more unfavorable to them than the issues of paper beyond the necessity of the country; for, so long as they keep within proper limits, it is found that they may emit one dollar and two-thirds, or two dollars of paper, for each dollar of specie in their vaults; but when their issues of paper exceed these limits, the excess continually returns, and instead of one dollar in specie meeting two of paper, a dollar in specie is required to redeem each dollar of the surplus emission of notes. With this restraint upon their issues, banks are kept in due check; and, sir, when the prudent and safe issues—viz: to the amount required by the country—do not yield employment for the capital, the business ceases to be profitable, the capital is directed to other objects, and the banking fund is kept at its just level. This, sir, is the necessary and just

result of fair banking—such has been the operations of the Bank of the United States, of whose capital, debts, and issues, the Government has been weekly informed. It is from the State banks that danger is to be apprehended. Of their capital, (I mean not their nominal, but their specie capital,) of their debts, and their resources, we are, and must remain entirely ignorant; and we have seen that some of these institutions, dishonestly emitting paper beyond the sum authorized by their capital, and beyond the necessities of the country, their notes have returned upon them, they have been unprepared to pay, their paper has depreciated, and individuals have been defrauded to a vast amount. And such, again, may be the case if we remove the check, the restraining influence, which the large and solid capital of the Bank of the United States, and its prudent direction, has enabled it to exercise over the State banks—these “mushrooms,” as the gentleman has called them, which, like Jonah’s gourd, have sprung up in one night and withered in the next.

The gentleman informs us that our exports of domestic products amount only to forty-five millions of dollars; that the capital of the different banks in the United States, at the rate of issues by the United States’ Bank, may emit ninety millions of dollars, and he infers that a paper medium beyond the amount of domestic exports cannot be necessary. This opinion, sir, needs an elucidation, which the gentleman did not give it. Why the amount of produce purchased for exportation should form the measure of circulating medium is, to say the least, not self-evident. Nor can I conceive why, in calculating the medium necessary or useful for the concerns of the country, we should exclude from view the purchases for internal use as well as for external sale, or lose sight of the repeated use made of the same note or piece of metal in its continued circulation. The circulating medium of a country, whether paper or specie, represents, because it commands, the articles we need and get in exchange for it. What the sum should be, my political arithmetic does not teach me, nor does the rule of the gentleman from Virginia. In my opinion, experience alone can show it, as I have before said, viz: that amount which the commercial, agricultural, and manufacturing concerns of the country will require and can employ; to be ascertained from the amount of silver and gold in circulation, bank credit, and bank notes issued and not returning upon the banks. It is, I admit, a fact, a proud fact, that the exports of our country have increased from eighteen to forty-five millions. New fields have been opened, produce increased, means of conveyance multiplied, and new markets sought and resorted to. Agriculture, commerce, and manufactures, have advanced, as they necessarily must, hand in hand; and to the beneficial influence of banks, increasing the capital, encouraging enterprise, stimulating and rewarding the interest of the country, we are indebted for much of this increase.

The testimony which the gentleman has borne to the correct management of the Bank of the

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United States, was to have been expected from his information and liberality. The fact previously stated, and repeated by him as a defect in arrangement, that the notes of the bank and its branches are not paid but at the office from which they issue, and at which they are made payable, is not a ground of complaint. The bank and its branches have each but a small portion of the capital. Of the branches, the largest portion, (only \$1,800,000,) is in New York, and it is absurd to suppose that either the branch with this capital, or the others with less, should redeem, at all times, the notes emitted upon a capital of ten millions. The thing is impossible.

From the opinion advanced by the gentleman, that the state of the bank should rather excite the fears of the institution for its own safety or solvency, than awaken the apprehensions of the community for the effects of dissolution upon them, I beg leave to dissent. We have had, in debate, various statements of the affairs of the bank, drawn either from former reports or conjecture. The report of the Secretary of the Treasury, this day laid on our tables, shows the present state of the bank. To this I shall refer for facts.

There is due to the bank from individuals upon notes discounted - - - -	\$14,578,294 25
Other banks owe them for notes and in account - - - -	1,287,485 92
The Government owe, including the late loan, funded debt and Treasury drafts - - - -	2,807,046 49
	18,672,826 66
They have in gold and silver - - - -	5,009,567 10
And in real estate - - - -	500,652 77
Making a property to face the demands on them - - - -	24,183,046 53

On the other hand what do they owe?

To the holders of their notes in circulation - - - -	\$5,037,125 22
To the Government for deposits - - - -	1,929,999 60
To other banks due in account - - - -	634,348 01
To individuals for deposits - - - -	5,900,422 83
To balances on outstanding drafts - - - -	171,473 17
Making the total amount of their debts - - - -	13,673,368 83

Thus, sir, with a property of twenty-four millions of dollars, leaving the stockholders the original stock of ten millions, and a surplus of more than half a million to meet bad debts. But were it otherwise—were it possible that, of the debts due them, ten millions should never be collected, the loss would affect the stockholders, whose original advance would be lost, but the interest of the community would not even then be affected, at least not as creditors of the institution; because even if ten millions, the capital stock, were by any means sunk, the bank would still be solvent, it would even then pay its debts, and, consequently, must be perfectly safe as regards the community.

Such, sir, is the state of the account on the side of the bank.

How stands the account with the debtors of the bank, or rather with the public?

The bank can demand the debts due it \$18,672,826 66  
Admit the demands upon it are applied as sets-off to their full amount 13,673,368 83

The balance still to be raised by the country is - - - - 4,999,457 83  
Within a trifle of five millions of dollars.

Whence is this sum to come? Not from the vaults of the other banks; they do not possess it. It is stated in the able speech of the representative of the city of Philadelphia, in the Legislature of Pennsylvania, upon the resolution respecting the bank, that the report of the state of all the banks of that State, recently made to the Legislature, shows that all the banks in Philadelphia (excepting that of the United States) have together but a little more than one million of dollars in specie: those who have the best means of information, declare the specie in the banks of New York is not greater, and in those of other cities unquestionably less. The State banks then have not the money, and cannot produce it. Will the notes of these banks pay the debt? No, sir, because their notes will be returned upon them for payment, which they cannot make. These banks know their own strength or weakness, and that they dread this crisis, is manifest from the course they have already adopted; they have curtailed discounts and commenced calling in their debts. The consequences you learn from the moans of your correspondents, and from the petitions which daily press your table. The want of money has produced a want of punctuality; confidence is destroyed; the life, the animating spark of business is, as it were, suspended, and deep distress is fast spreading over the commercial world. Sir, my deductions are supported by facts. They prove the solvency, indeed the strength of the Bank of the United States, is such as to merit the confidence of the people, which it enjoys; while the situation of the State banks, and the deficiency of the precious metals, gives a fatal assurance of the inability of the country to submit, without great distress, to the operation of having extracted from it the large debt due the bank.

The gentleman from Virginia says it is no argument in favor of a continuance of the bank, that it is necessary for the management of the financial concerns of the United States, for that the word "finance" is not to be found in the Constitution. Sir, were I called upon by one of the yeomanry of this country—one whose days had been spent at the plough, remote from Courts, and without concern in affairs of State, to define to him what were the financial concerns of the United States, I should, as an explanation adapted to the simplest understanding, inform him that the laying and collecting taxes, borrowing money, and paying the debts of the Union, were its financial concerns. And as these powers are expressly granted to Congress, although the word "finances"

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may not be found in the Constitution, Congress are thus required of necessity to provide for the management of the "financial concerns of the United States."

Permit me now, sir, to notice objections urged against the bank from other quarters, and of a different nature—objections not calculated, probably not intended, to influence this House, but which may have an influence abroad. Gentlemen have objected to what they term the foreign influence in our affairs from a portion of the stock of this bank being held by foreigners; and the gentleman from Maryland (Mr. WRIGHT) has alleged that aliens, traitors, and old tories, are intrusted with its direction; others with him have said that the bank and the funding system are twins of the same progenitor, (Alexander Hamilton,) and that the question of creating this bank was the ground on which the parties of the United States first divided.

The charter of the bank did not exclude foreigners from purchasing shares, because, at the period of its establishment, our country was without capital, and it was an object rather to invite foreign capital to the United States than to repel it; their large funds and low rates of interest have enabled them to give more in the market than our citizens could afford to pay, and they have consequently purchased. But, if it be a sin to have sold stock to foreigners, lay it at the right door; and when you revile the measure, do not forget it was one of Mr. Jefferson's Administration, who sold to English merchants, in the year 1801, all the stock in the bank which the United States owned.

The charter denies to any stockholder, not a resident of the United States, the right either of a vote in the choice of directors, or a seat at the board of directors. And thus divested of any power to interfere in the concerns of the bank, it requires more than human penetration to discover, or more than ordinary jealousy to suspect, how foreigners can influence even the affairs of the bank, much less, through its agency, the concerns of the country.

This cry of foreign influence from the use of foreign capital is a modern bugbear. During our Revolutionary struggle, our soldiers were clothed and armed with funds borrowed in Europe; our nerves were hardened, our sinews stiffened, and our independence achieved with the assistance of foreign capital. Yet the heroes and sages of that day suspected not any improper foreign influence; they were brave and wise, but not as cunning as our present statesmen who have made the discovery.

As to the aliens, traitors, and old tories, who are concerned in the direction of the bank, the gentleman is too general in his charge. So far as he will be particular he can be met. He named but two persons as meriting his denunciation: Evan Jones and Daniel Clarke, of New Orleans. I, sir, know not personally either of these gentlemen. Mr. Jones I understand to be a native of Pennsylvania, who, at the peace of 1763, when Great Britain acquired Florida, set-

tled in that country, and has resided there and at New Orleans ever since; he is declared to be a man of high character for integrity and honor. Mr. Clarke has had a seat as a delegate on this floor; though not a native of the United States, he is as much a citizen as any of the inhabitants of Louisiana, made so by treaty, and as much so as will be the Representatives of the State of Orleans, "that is to be," in the next Congress. Against his character nothing has been alleged other than that imputation which the people of the United States have fixed upon the character of every man who has been the friend or associate of Wilkinson and Burr. Let me not be understood as committing myself to the opinion of the guilt of these gentlemen. I was not of Burr's jury—he may be guilty; nor am I of Wilkinson's committee—he may be innocent; yet suspicion deeply stains his character; it will take much of the labor of the file to rub it off.

But, sir, let it be supposed that an individual who was unfriendly to our Revolution should have been chosen by those who are proprietors of the bank to a seat in its direction. Would the choice be either new or criminal? Sir, a person whose name is recorded in the proscription statute of a State as an "old tory," was appointed by Mr. Jefferson a district judge of the United States. In other States, but particularly in New York and Pennsylvania, persons who bore arms against us and adhered to our enemy in the Revolutionary war have also been appointed by Republican Presidents to offices of high trust. Why were these "old tories" thus honored and trusted? Because they possessed integrity and ability to qualify them for their stations. And, why might not a tory be chosen a director of a bank, if his virtues and talents had gained him the confidence of the stockholders? The choice seems to me to be as pardonable in a stockholder as in a President—or is it, sir, that the Republican President has been converted into a political Pope, and has alone the power to pardon and absolve from political sins?

Of the origin of the Bank of the United States, the honor is certainly due to the first Secretary of the Treasury. In justice to his memory, the fact ought frequently to be mentioned and never to be forgotten. But, sir, the merit of obtaining the adoption of the plan is not entirely his. The original bill in every stage received the support of gentlemen of the Republican party; among those, who were its earliest supporters, one most distinguished for ability, the present Secretary of the Treasury, continues it advocate to the present hour.

In support of the claim of the bank for a renewal of its charter, and to the credit of Mr. Gallatin, I will here read extracts from his report to the Senate, of March, 1809:

"The advantages derived by Government from the bank are nearly of the same nature with those obtained by individuals who transact business with similar institutions, and may be reduced to the following heads:

"1. *Safe keeping of public moneys.*—This applies not only to money in the Treasury, but that in the

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hands of collectors, and affords one of the best securities against delinquencies.

"2. *Transmission of public moneys*—from one quarter of the Union to another. This is done by the bank at its own risk and expense.

"3. *Collection of the revenue*.—The punctuality of payments introduced by the banking system, and the facilities offered by the bank to importers indebted for revenue bonds, are amongst the causes which have enabled the United States to collect with so great facility and with so few losses the large revenue derived from import.

"4. *Loans*.—The bank has been eminently useful in making the advances, which, under different circumstances, were necessary. At one time Government owed it \$6,200,000, exclusive of 6 per cent. stock original subscription, and a similar disposition to accommodate has been repeatedly evinced whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained."

The report then states, that although the banks established under authority of the States might afford considerable assistance to the Government in its fiscal operations, there is none which can transmit moneys with the same facility or to the same extent; none which can afford so great security against any possible losses, or greater resources in relation to loans. "Nor is it eligible that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever." He also notices the objection of foreigners holding stock, but this he declares "does not at all events appear sufficient to outweigh the manifest public advantages derived from a renewal of the charter."

Mr. Speaker, gentlemen may disregard, but they cannot despise, nor can they destroy, this high testimony, which, while it establishes the utility of the bank, bears honorable testimony to the upright and patriotic spirit in which its operations have been conducted. This testimonial outweighs all that the bickerings of interest, the suggestions of jealousy, or the apprehensions of the uninformed, can assert against the institution. For myself, sir, had I no other knowledge of the subject, I should feel no hesitation upon the question of constitutionality and necessity of a bank which Hamilton recommended, Washington approved, and Gallatin, after twenty years experience, continues to advocate. The shade which has been attempted to be cast upon the fame of Hamilton as the "progenitor of the bank" must when examined, like every other attack upon it, but add to its lustre. Sir, I shall not attempt to eulogize the name of that great man; were my feeble powers equal to the task I should deem it unnecessary: Party rancor, which impotently followed him to the grave, cannot now obscure one ray of that sun of glory which shines upon the tomb of the illustrious dead.

As if satisfied or fearful that no argument against the bill could be urged which would plausibly destroy its claims to support, the question has been called a party question. To rally a party round its standard, to excite the pertinacity and awaken the severity of party feeling, it has been

declared that upon the question of incorporating this bank in 1791, originated the division of parties which has since existed in this nation. Until this time sir, this discovery has not been made. I had understood a very different history of the origin of party. I have heard, I have read, for youth did not permit me to witness, that at the formation of our present Constitution many persons with different views were opposed to its formation and adoption, preferring that shadow of union in which the States, as with a rope of sand, were attempted to be bound under the Confederation, to the strength, firmness, and unity, in which we are knit by the Federal Constitution. The good sense and good fortune of our country prevailed, the Constitution was adopted, and those who as anti-federalists had opposed the adoption of the Constitution were organized with very few exceptions under the name of Republicans, in opposition and decided uniform hostility to the measures of the Federal Government.

The charter to the bank thus indeed became with some of its opponents a question of party, although it received the support of others who were anti-federal. In this party opposition it only met the fate of every other measure, however wise and salutary, originated and perfected at that period. Let us hope sir, that the blindness and injustice of such rule of action is not again to be revived.

Let me now, sir, rapidly glance at the consequences which are to attend the rejection of this bill. The intercourse between the States, and the dealings of the citizens of a State with those of different parts of the same State, require a circulating medium far above the quantity of gold and silver which exists amongst us. No man contends that the demands of commerce, or even the ordinary transactions of individuals, can in the present scarcity of gold and silver be carried on without the intervention of bank notes. Hitherto, sir, the notes issued in each State have answered some of the domestic uses; but for the purpose of remitting to, or receiving payment from other States, no reliance has ever been placed upon the notes of State banks. It has frequently happened that notes have got into circulation, purporting to be issued by a bank which in fact never existed, and others issued by banks which had failed. The difficulty of knowing the real from the spurious, and the solvent from the insolvent, has so far restrained the circulation of the notes of State banks within the limits of their own State, as to have prevented any late frauds and losses except among the very uninformed part of the community. In these circumstances, the known ability of the Bank of the United States, the receipt of its paper in payment of debts to the United States, has given it a currency and credit equal to gold and silver in every purpose of domestic or foreign use, and its frequency among us has so far familiarized all men of business with the notes as, if not entirely to prevent frauds from counterfeits, at least greatly to diminish the injury. In destroying this bank, you are about, sir, to strike all this most valued paper medium out of exist-



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ence; to dissolve an artificial capital of the Bank of the United States of ten millions of dollars, and not merely this capital of the Bank of the United States, but, by withdrawing from the other banks the very large portion, if not the whole of their specie capital, with which they must part to pay the Bank of the United States the debts daily increasing against them, by the receipt of their notes in discharge of individual debts to the Bank of the United States, you inevitably render the State banks less able to accommodate, and diminish greatly that portion of the circulating medium emitted by these banks.

Of the distress which this measure will occasion, I need say nothing. The evidence of its existence and magnitude surrounds you, and have been already repeatedly pressed upon your attention. You are in fact to destroy all confidence in bank paper. Can my constituents know whether the bank note of New Hampshire or Georgia, which is offered them, is genuine or spurious? Can they know whether a bank is in credit, or insolvent, of which they have never before heard? Yet, sir, as gold and silver is not to be had, and the United States' Bank notes will no longer exist, you reduce the people to this dilemma; either they must receive the notes of State banks, ignorant as they must be of their genuineness of credit; encounter the daily risk of being defrauded, or keep on hand their produce. In this state of uncertainty, bank notes must lose their credit; will cease to circulate; must soon depreciate, and scenes of speculation and embarrassment will ensue not unlike those which have heretofore nearly ruined our country.

Mr. Speaker, the present is not a time for dangerous experiments upon the prosperity of our country. With foreign nations our relations are more than at any other period perplexed. In my apprehension the nations of Europe, with more than one of whom we have advanced in a warlike attitude, will have more forbearance and less temper than is usual with them, if they do not meet us with decided, not secret hostility. And, in this time of danger from abroad, while with a non-intercourse law in one hand, you fetter all external commerce, sink your revenue, and reduce the value of property; with the other, by destroying the bank, deranging the finances of the Government, overturning private credit, and destroying commercial confidence, you press with the deadly weight of an incubus upon the exertions of domestic industry and enterprise. The inevitable effect of these measures must be to turn loose a torrent of overwhelming calamity, the extent of which you cannot estimate, and the force of which you cannot stay. The consequences are awful, and the responsibility serious. Let gentlemen look to it.

Mr. RHEA, of Tennessee.—If, in the course of this debate, observations had not been made which appear to deprive the Constitution of the United States of its innate virtue and honor; to destroy its beauty and simplicity; and to transform it into a deformed and distorted something, the debate on this bill to renew the charter of the bank

of the United States would have progressed to the end undisturbed by any intervention of mine. If a train of reasoning be adopted that tends to disturb this Constitution, and to give to it a construction and interpretation that it will not bear, it then becomes a duty to state opinions respecting it, and to vindicate the true intent and express understanding thereof.

The Constitution was solemnly and deliberately made by wise men, who composed the Convention, in the name of the people of the United States, and it was solemnly and deliberately ratified by conventions of the States respectively. It is simple and easy to be understood by any one who, knowing the objects and ends for which it was ordained, will candidly examine it. A defence of the Constitution is a defence of the great and good men who made it what it is; for, if the Constitution be dark, of obscure intent, and dubious meaning, it is not what it ought to have been. If it be dark, obscure, and dubious; if it be capable of inconsistent or contrary interpretation, the conventions of the ratifying States have not examined it with that careful attention which it required. Vain and empty surmises will evaporate, the characters of the men who made it being considered; the scrutinizing inquiries of the several ratifying conventions being contemplated, and by a candid examination, without prejudice, of the Constitution itself.

The Constitution is a compact between the individual States and the United States. It is the great charter and bill of rights delegated and given by the several States composing the Union to the United States. It contains rights, powers, and principles, to be acted on by the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty; and we, "the people of the United States," have ordained and established it the Constitution of the United States of America.

The rights, powers, and principles, enumerated in the Constitution, are void of elasticity; they are firm, fixed, and unbending; they will not yield to discretion on various assumed constructions; unchangeable in their nature, intent, and object, they are mutable only by the Constitutional authorities.

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people"—article eleventh of the amendments to the Constitution. This article manifests that all the rights delegated to the United States are enumerated in the Constitution, and the enumerated rights shall not be construed to deny or disparage, to bring into disrepute, or diminish, other rights retained by the people; and to that end it is absolutely necessary that the rights delegated be expressly and distinctly enumerated, otherwise it would be impossible to ascertain and distinguish the rights delegated to the United States, and the rights reserved to the people. "The powers not delegated to the United States by the Constitution,

nor prohibited by it to the States, are reserved to the people"—article twelfth, amendment to the Constitution. By this article it is manifest that a power, not distinctly and expressly delegated to the United States by the Constitution, nor expressly and distinctly prohibited by it to the States, is reserved to the States respectively, or to the people. These amendatory articles exclude and prohibit an assumption of discretionary powers; of constructive powers; and of all powers and rights not expressly and distinctly enumerated in the Constitution. By the word "power," or the word "right," is understood a fundamental principle of the Constitution; the Congress cannot change, alter, vary, or destroy it; it assumes form when it is clothed with a legislative act of the Congress, and ordered to operate.

It may be proper to notice some observations made in the course of this debate, which appeared to evidence a disposition to show that the Congress was vested with discretionary or constructive powers in matter of principle. It has been intimated that Congress had not power to disband an army, if the power was not assumed. If the Constitution had been well considered, this and other similar intimations would have been omitted. An army is raised in consequence of a law, bottomed on the clause in the eighth section of the said article, which empowers Congress to raise and support armies. By the eighth section, the Congress is empowered to "make rules for the government and regulation of the land and naval forces." And the Congress is prohibited to make an appropriation of money to support an army for a longer term than two years. The Congress, acting on these powers, will disband an army. A law may be made to expire by a limitation in itself; if not, the Congress will make a law to repeal it. A law may be enacted to repeal the law whereby an army is raised, and then that army will be disbanded. The writ of *habeas corpus* is a prerogative writ of the people of the United States, and was in use previous to the existence of the Constitution; it is not prohibited by the Constitution to the people; it is a duty of the judiciary to issue writs of *habeas corpus*, proper cause being shown. The privilege of that writ does not depend on the clause in the ninth section of the first article of the Constitution; that clause only contains an express condition or reservation, that the Congress shall not suspend the privilege of the writ of *habeas corpus*, except when, in cases of rebellion or invasion, the public safety may require it. A writ of *habeas corpus* being issued by the judiciary, a law suspending the privilege of that writ is a law regulating the proceedings of the judiciary, and is bottomed on the powers vested in the Congress by force of the third article of the Constitution. "No bill of attainder or *ex post facto* law shall be passed." This is an express prohibition, and requires no illustration. "No title of nobility shall be granted by the United States." This, also, is an express prohibition. The Congress have power "to provide and main-

tain a navy," and to make rules for the government and regulation thereof; and to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations;" and consequently to make rules and regulations for the government of seamen of every description. It has been asked, by what delegated power does Congress make laws to prevent settlers on lands, the Indian title whereof has not been extinguished? If the gentleman who made the inquiry had considered that land, the Indian title whereof was not extinguished, remained by treaty for the use of the Indian tribe until the extinguishment of title, and that, a treaty being a supreme law of the land, the Congress is empowered to give it complete effect, the inquiry probably would not have been made.

It is urged that a discretionary power is necessary to carry the enumerated powers into effect. If the discretionary power alluded to intends only a power to legislate on the delegated right or power, in a proper time and adequate manner, this is no more than a power to make laws to carry the delegated power into execution; but if by "discretionary power," is intended a power to assume at discretion a right, or principle, not enumerated in the Constitution, under pretence of carrying a delegated power into execution, it is denied that the Congress has that power; for if a delegated power cannot be carried into execution without assuming at discretion a right not delegated, it will only prove, that the Constitution in this respect, is deficient and requires amendment, and will not prove, that Congress to effect a measure, may at discretion do an unconstitutional act.

It has been argued, that the Convention left Congress to adopt the means, as circumstances might admit, to carry the delegated powers into effect. What is intended by the word *means* ought to have been explained in a Constitutional, not a discretionary manner. To produce an effect of a general nature the means ought to be commensurate and co-extensive. Water is a means to allay the thirst of all mankind; and there is no substitute. Ships and sea-vessels are a means of carrying on commerce between nations separated by the ocean, and there is no substitute. The Constitution vests Congress with power to regulate commerce with foreign nations, but no man will believe that, in virtue of that power alone, the Congress would attempt by a discretionary or a constructive power to adopt another principle, that is, to provide and maintain a navy to protect commerce.

The last clause of the eighth section is in the following words—"And to make all laws (that is, Congress shall have power to make all laws) which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof."

This is the clause which is called the sweeping clause, pretending to vest all powers and authorities, although not expressly enumerated. It may

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be proper here to inquire what is intended by the words "and all powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," or what are the powers intended by the words "all other powers," inasmuch as it is probable that an opinion may have obtained, that by these words are understood some hidden occult powers, not expressly enumerated in the Constitution; that these powers are for the peculiar exercise of discretion, and that they are certain discretionary powers, to be discovered and assumed in extraordinary cases. If any such opinions are entertained, a careful examination of the Constitution will dissipate them. Powers other than those enumerated in the eighth section of the first article of the Constitution—these powers might all be mentioned—but that is unnecessary; some of them will be noticed. "Congress have power to provide by law for taking the census of all the people of the United States every ten years." Congress have power to appoint by law a day to convene other than the first Monday of December. To determine by law the time for choosing electors of President and Vice President of the United States. Section fourth of first article—"The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

"To make laws respecting the District of Columbia." "To declare the punishment of treason." Several of those powers denominated "other powers," are enumerated in the ninth and tenth sections of the first article of the Constitution. Congress have power by law to establish courts inferior to the Supreme Court. Congress have power to make all needful rules and regulations respecting the territory and other property of the United States. This enumeration may at present be sufficient to show what powers are intended by the words "other powers," and also to manifest incontrovertibly that the words "and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," refer only to powers expressly and positively enumerated in the Constitution, and by it vested in the Government of the United States—that by these words are not understood, as some may have fondly imagined, any powers of discretion, fitted, when discovered, to fill chasms in the Constitution of the United States; and that by these words are not to be understood some concealed occult powers, waiting to be revealed by superior wisdom to meet particular purposes, for instance, the creation of the Bank of the United States, or to be dragged out by main force to support unconstitutional pretensions. In the Constitution are clearly expressed and enumerated all the powers, rights, and principles, which have been vested in the Government of the United States or in any department or officer thereof, by the individual States ratifying the Constitution. Nothing is left in obscurity or

difficulty; and this Constitution is not elastic, it will not bend to discretionary opinions.

I will now, said Mr. RHEA, with all due respect, approach the main point of inquiry, viz: is a power or right to create the Bank of the United States, expressly enumerated, to be vested or intended to be vested in Congress by the eighth section of the first article of the Constitution. It may be previously observed, that if in the ninth section of the first article there had been even a negative expression or enumeration of power, or right inserted, empowering Congress to create the Bank of the United States; as if it had been stated in the words following, or words to the same effect—"Congress shall not create the Bank of the United States prior to the year one thousand eight hundred"—there might have been some reason to presume upon. But a negative expression of a power or right of that import is not in the ninth section enumerated, nor in any other section of the Constitution. The words in the eighth section of the first article of the Constitution, which have caused such amazing solicitude and inquiring anxiety to discover some obscure occult power or right to create the Bank of the United States there, are the following: "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States," and (as expressed in the last clause of the section) to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (that is, the powers enumerated in the eighth section) and all other powers (that is, powers enumerated in other sections of the first article, and enumerated in other articles of the Constitution) vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Let these words be carefully and attentively examined, and all obscurity and difficulty will be removed; let them be connected in the manner they were intended to be connected, and no reason will be, to presume some unknown occult power, on which a pretension to create the Bank of the United States can exist. "Congress shall have power to lay and collect taxes." Let the words be connected, so that they shall read, "Congress shall have power to make all laws necessary and proper to lay and collect taxes, duties, imposts, and excises." Here, said Mr. R., a question presents itself, that is to say, for what purpose shall Congress have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises? The first clause gives the answer—"To pay the debts, and provide for the common defence and general welfare of the United States." The expression of the delegated power or right will then in plain and intelligible language be—"Congress shall have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States." This reading presents to the mind clear and distinct ideas, re-

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moves doubtful interpretation, and establishes the truth contained in this section of the Constitution. Let this reading be prefixed to every clause in the 8th section, and the propriety thereof will be more apparent; for instance, Congress shall have power to make all laws which shall be necessary and proper to borrow money on the credit of the United States, to pay the debts, and provide for the common defence and general welfare of the United States. And here let it be observed, that the words "for the common defence, and general welfare of the United States," are words of limitation and restriction, and not of amplification of powers; these words direct to the end for which all taxes, duties, imposts, and excises, shall be laid and collected, and it follows that taxes, duties, imposts, and excises, shall not be laid and collected for any purpose whatever other than to pay the debts and provide for the common defence and general welfare of the United States.

The rights, powers, and principles, delegated by the individual States to the United States, and enumerated in the Constitution, are substantial, not formal; and, being substance, are unchangeable in their nature, and must continue until altered by the Constitutional authorities. An institution or principle which has power to put bank paper in the place of gold and silver, is substantial—not formal—and never can be fixed as a form, by way of appendage to the business of collecting taxes, duties, imposts, or excises, or by way of appendage to aid commerce, or to borrow money. With as much propriety may it be said to aid in establishing a uniform rule of naturalization, or in making uniform laws on the subject of bankruptcies throughout the United States. A principle, or a right or power to create the Bank of the United States is not inserted or enumerated among the rights and powers enumerated in the eighth section of the first article, nor in any other section of the Constitution. Let it not then be presumed that the Convention who made the Constitution, or the ratifying States, did, in an occult and obscure manner, vest the Government of the United States with a right or power to create the Bank of the United States in the manner and form belonging to the bank, the charter of which labors to be renewed. The Constitution contains no enumeration of a principle which can give any pretence for such presumption.

In the eighth section of the first article are enumerated rights and powers of minor importance than a right to establish the Bank of the United States. The right to establish uniform laws on the subject of bankruptcies throughout the United States is of minor importance—that right is enumerated. Certainly, then, if the Convention, or the ratifying States, had designed to vest Congress with the right to create the Bank of the United States, that right would have been expressly enumerated in the Constitution.

By virtue of the eighth section of the first article of the Constitution: "Congress shall have power to make all laws which shall be neces-

sary and proper to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The insertion of that right or power affords sufficient reason to conclude, that if the Convention had intended to delegate to the Congress a power or right to create the Bank of the United States, the right or power to establish it would certainly have been expressly enumerated in the Constitution. "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."—11th article of amendments to the Constitution. Here, then, it may properly be observed, that the rights enumerated in the Constitution are certain, that is, identically and distinctly enumerated rights, and that those rights shall not be by discretion construed to deny or disparage other rights reserved to the people. A right or power to establish the Bank of the United States is not enumerated in the Constitution; that right or power, therefore, is not denied to the people, and the certain rights enumerated in the Constitution shall not be construed to deny that right to the people, that is, to the people in their individual State capacities. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."—12th article of amendments to the Constitution. The eighth section of the first article of the Constitution enumerates certain powers or rights delegated to the United States. The 10th section of the first article enumerates certain rights prohibited expressly or conditionally, to the respective States; but in the tenth section, or in any other section of the Constitution, a right to create bank institutions is not prohibited absolutely or conditionally to the respective States or to the people; that right therefore is not delegated to the United States, but is reserved to the respective States or to the people. The States respectively have legislated on that power and right reserved, and have established bank institutions, and the United States have not interfered to prevent them.

In the eighth section of the first article of the Constitution a right is enumerated. "The Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States." The power delegated to the Congress by virtue and force of this clause, is eminently great, and requires no illustration to prove that Congress has power to create bank institutions in the District of Columbia.

In favor of a renewal of the charter of the Bank of the United States it is argued, that the Congress, having power to lay and collect taxes, duties, imposts, and excises, has also power to establish the Bank of the United States as a means to aid in collecting taxes, duties, imposts, and excises. It will not be said that the Bank of the Uni-

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ted States is an essential necessary means in collecting taxes, duties, imposts, and excises, for experience has proved that taxes have been collected without the aid of that bank. But if it be a means essentially necessary to collect taxes, it ought to be as extensive in operation as the law for collecting taxes. The nature of the bank institution proves that it cannot be coextensive with the law for collecting taxes. Ten dollars being the lowest sum for which a bill of that bank is issued, it is manifest that bills of ten dollars, twenty dollars, fifty dollars, and upwards, cannot aid generally in collecting and paying taxes; admitting the circulation of these bills to be coextensive with the operation of the law. The 10th section of the act entitled an act to incorporate the subscribers to the Bank of the United States, provides, "that the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold or silver coin, shall be receivable in all payments to the United States." But, notwithstanding the bills or notes of that corporation shall be receivable in all payments to the United States, as is provided for in that section, the act alluded to does not provide that the bills or notes of that bank shall be receivable in all payments to citizens of the United States. The Bank of the United States, therefore, cannot be an adequate means to collect taxes from all the citizens of the United States, and, if not from all the citizens of the United States, the operation of the bank will be partial, and consequently injurious to the people.

By the 10th section of the law alluded to, the bills and notes of the corporation established by that law are made receivable in all payments to the United States. The bonds for payment of duties and imposts on foreign merchandise imported into the United States are generally deposited in the bank of that corporation or in the respective branches thereof. Whatever benefit or advantage, if any, arises by collection of those duties and imposts, accrues to that corporation; whatever gold and silver is paid on account of those duties and imposts, it remains at the disposition of the corporation, by reason that the corporation, by the law, are enabled to pay the amount of all the duties and imposts to the United States in bills and notes. These bills and notes afterwards come into the hands of the agents and public functionaries of the United States, and by them are paid to the citizens, and by this operation the bills and notes of the corporation obtain a circulation to a certain extent among the people, and, notwithstanding they may not be a legal tender in payment of debts by one citizen to another, do nevertheless acquire a degree of currency by being in the first instance made payable to the United States. By this operation, bottomed on the 10th section of the law, the corporation have the advantage of retaining the precious metals in their vaults until an opportunity offers to dispose of them to the best advantage, or to export them to foreign countries. Other observations might be made

respecting the operation of the law incorporating the subscribers to the Bank of the United States; but what already has been observed may be sufficient to excite reflection on the machinery and influence of the mighty engine which the stockholders of the Bank of the United States have in their power at any time, for any purpose, to set in motion. The instrumentality of this engine pervades the United States in all elections; it can raise up and put down; it may say, "I can raise you to a conspicuous and exalted station, if you obey my directions, and if you do not, I can put you down." If an institution of this magnitude is good for the people of the United States—if its influence is for their benefit, let it be demonstrated. Suppose the citizens should refuse to receive the bills and notes of that corporation in payment of debts, what would be the consequence? Why, let us not say ruin to all would follow; but certainly many would be injured.

It has been said, that the Bank of the United States aids commerce. If it does, it must be in a manner very unimportant to the people of the United States in general. The bank may be a convenience to all who have to pay, in the first instance, duties and imposts on merchandise imported into the United States, and that benefit to them operates to throw on all the other people of the United States a prodigious mass of paper in place of gold and silver, the evident effect of which is to substitute the bills and notes of that bank in place of the precious metals; and to give that bank the power of commanding the medium of trade in the United States.

The action of the bank is within the United States and territories thereof; the bills and notes thereof, as has been observed, are made receivable in all payments to the United States; but the assumed position, "that the bank aids commerce," not satisfied with what has been said relative to the manner in which it aids commerce, returns and requires further explanation—and it is proper to give that explanation. The annual reports of the Secretary of the Treasury show the prodigious amount of goods, wares, and merchandise, every year imported into the United States from foreign countries, and particularly from Great Britain, and the dependencies and colonies thereof. Will any of the gentlemen who favor a renewal of the charter of the Bank of the United States, as it is called, inform this House, whether any part, and if any, what part, or to what amount of the cost of the goods, wares, and merchandise, imported into the United States, is actually paid for, to the merchants in foreign countries, to whom the orders are sent, in bills and notes of that bank, such as are passing among the people of the United States? If such payments are made in such bills and notes, then indeed there will be reason to contend, that that bank aids commerce in its operations. If that information is not obtained, it will be taken for granted, that no such payments are made in the bills or notes of that bank. The fact then appears to be, that the bills and notes of that bank do not pass out of the United States

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and territories thereof, to any foreign nation, in payment for the merchandise imported from that nation, and that no merchant of any foreign nation will receive bills and notes in payment for the merchandise ordered. The effect of all this is, that gold and silver is exported to foreign countries to pay for the goods, wares, and merchandise imported, after deducting from the gross amount of the value thereof that part which may have been paid for in produce of the United States. The consequence of which is, that the precious metals are drained from the United States, and the paper of the bank circulates among the people in the place of gold and silver. If that cause is suffered to continue to operate, a time may not be far distant when the paper of that bank will be the only visible medium of trade among the people; and a piece of gold or silver coin, (notwithstanding the Mint has issued great quantities thereof) will be rare to be seen. It has been said that the bank has been aiding to agriculture. If it be so, it is strange that the agricultural part of the community have sent no petitions or memorials to Congress praying for a renewal of the bank charter. From whom do all the petitions and memorials come? Not from agriculturists; not from all the merchants of the United States; but from persons interested in the continuation of that bank charter, and a portion of the merchants.

It has been urged that, if the bank charter is not renewed, ruin and destruction almost universally will fall on the people of the United States. These declarations, said Mr. R., affect me not, because I place no confidence in them. An agricultural people cannot be ruined, until it shall please the Almighty to prohibit the return of the seasons in their regular time, until it shall please Him to dry up the fountains of rain, and say there shall be no more seed time nor harvest. But if this bank is of such mighty force, that its fall will produce these direful effects, it is more prudent to meet them now, than to delay them to a future period. This nation is as well prepared to meet them now, as it will be hereafter.

It has been said, and insisted on, that the bank has aided the Government in its fiscal operations, and that the Government cannot well do, or do well, without it. Let it rather be said, that the Government has aided the bank, raised it into existence and afforded it every support, by placing in its hands the collection and deposition of the revenues of the Government for twenty years; by receiving from the bank its paper in place of gold and silver, and thereby leaving the gold and silver to be used to the benefit of the bank corporation. The bank may have been, to a certain extent, convenient in carrying on the fiscal operations of the Government, but it will not be said to be an institution profitable to the great mass of the people of the United States; neither will it be believed to be an institution aiding in its action and influence the Republican institutions of the people of the United States.

The law creating the Bank of the United States, or, in other words, the bank called the Bank of

the United States, is not bottomed on the Constitution—it is inconsistent with, and repugnant to the Constitution. A Constitutional government requires no aid—can have no aid from an unconstitutional principle. The great men who made the Constitution, and the ratifying States, have declared, that as it is, they made and ratified it, and the people of the United States adopted it for the purpose therein enumerated and delegated; and if the Government cannot exist in virtue and by force of the powers, rights, and principles expressly enumerated and delegated in the Constitution, without the aid of a principle violating the Constitution, it is time that there should be another grand convention, with powers to make another Constitution. But in my opinion, said Mr. R., the rights, powers, and principles, expressly enumerated and delegated in the Constitution, are completely adequate to all intents and purposes for the existence of the Government, without the aid of any principle inconsistent with and repugnant to the Constitution.

Mr. McKEE.—Mr. Speaker, having once troubled the House on this subject, it is not without much regret that I ask the attention of gentlemen to a few more remarks before the question is taken.

The opposers of this bill have uniformly contended against the exercise of a power under the Constitution which is not expressly delegated to Congress by the letter of the Constitution. This position cannot be maintained by the experience of what is past; nor can it be adhered to in future; or in the management of the affairs of this Government. And I conjure gentlemen to pause, before they give a construction to the Constitution, which they themselves have, on other occasions, violated; and which they will be compelled again to violate, or desert the best and dearest interest of their country.

Sir, the Territory of Louisiana has been purchased since the commencement of the Republican Administration; and this act constitutes one of their strongest titles to the fair fame with which they are surrounded. And yet I ask where (according to the construction contended for) is the power under the Constitution which could authorize the mode of this acquisition? Will any gentleman point it out to me? For I confess I cannot perceive it. I know Congress are expressly empowered by the Constitution to declare war; and the power to declare war includes the power to acquire territory by the successful result of that war. And hence it would seem to follow that the Government may, with propriety, attain the same end by treaty or purchase, which they could effect by force. But this power is certainly a constructive one, to be collected from the reason and not the letter of the Constitution. And therefore, according to the doctrine inculcated, it cannot be used.

Congress have also laid a general embargo; and whence, I ask, is the power authorizing this act derived? It certainly cannot be justified under the general power, delegated by the Constitution to Congress, to regulate commerce; because a

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general embargo during its continuance puts an end to all commerce. And it is perfectly absurd to say, that the general delegation of power to regulate commerce, includes the power to suspend it altogether. But the Constitution has delegated to Congress the power to provide for the general welfare, and common defence; and a withdrawal of the property as well as the persons of our citizens from the ocean in times of difficulty and danger, by means of a general embargo, thereby reserving to the country the resources as well as physical force of the people unimpaired, is, in fact, providing for the general welfare and common defence. And hence results the power exercised by Congress of laying an embargo. But, sir, this is also a constructive power, not expressly delegated to Congress by the Constitution; and therefore, by the doctrine contended for by the opposers of this bill, cannot be exercised.

Congress have built a house for the President of the United States, that would, in point of size and magnificence, beggar anything to be found at St. James's or elsewhere. They have established post offices in all the States of the Union, and by law exempted the postmasters from serving on-juries as well as performing military duty; by this means creating an influence in the interior of the States, without any express delegation of power, authorizing the act; and therefore (according to the construction contended for on this occasion) unauthorized and unconstitutional.

I might proceed to enumerate a long catalogue of cases, in which Congress have exercised powers under the Constitution which were not expressly delegated, but drawn entirely from the reason, spirit, and essence of the instrument; and justified alone in their fitness and efficacy to carry into effect some of the great class of powers delegated to Congress by the Constitution. The people of the United States have experienced the most happy consequences, arising solely from the exercise of those constructive powers, against which some gentlemen now declaim with so much apparent zeal; and which are certainly less tortured and far-fetched, than the construction for which those gentlemen so pertinaciously contend.

When we view the past we find that all parties have uniformly given the same practical construction to the Constitution.

Washington, the great Father of his Country, Mr. Jefferson. Mr. Gallatin, and all the magistracy of the United States, including both Houses of Congress, have given directly or indirectly the same construction to the Constitution; and with these illustrious examples and precedents before me, I cannot arrogate to myself the self-sufficiency to disregard or distrust them, and make out some new, utopian, untried theory, sanctioned neither by reason, experience nor policy; believing it to be more safe to pursue the old and beaten track, than to adopt untried experiments, particularly in a case of a doubtful nature. I admit that Congress ought not to look for the Constitution in your statute book, or in the fugitive pages of your Journal, but to the instrument itself. But, sir, where a construction has been given to this instru-

ment by its great father, and where that construction has been ratified by the sovereign voice of the people, it should remain unchanged.

The gentleman from Pennsylvania (Mr. SMILIE) has endeavored to assimilate the power now attempted to be exercised to that exercised in the adoption of the odious alien and sedition laws, (as they have generally been called.) And if, sir, the gentleman had forgotten (as he seems to have done) the first article in the amendments to the Constitution of the United States, then indeed, his parallel would have been an appropriate one, differing from the construction now contended for, only in the signal circumstance, that the alien and sedition laws, in their practical operation, tended to abridge the liberty of the citizen, whilst the bank is a matter of policy alone.

But these alien and sedition laws were in direct hostility to the first article in the amendment to the Constitution, which is in the following words: "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press." This prohibitory article shows the real difference between the two cases.

Much sensibility has been manifested in relation to State rights, which, it is apprehended, will be prostrated by the renewal of this charter. Sir, I am a friend to State rights, in the safe and inviolable preservation of which we have the surest guarantee for the perpetuity of this Government. But, sir, I ask if there are not extremes on this subject? And whilst we are guarding against *Scylla* with care and solicitude, is there no danger of falling on *Charybdis*? Are not the power and influence of some of the States now almost paramount to the power and influence of the General Government? By your refusal to renew the charter of the United States' Bank, you considerably enhance this power in the hands of the great States. Your revenue is then to be collected and deposited in State banks. About one-third of it will be collected by the State of Pennsylvania, and will be deposited in her banks. And those banks are, as they relate to you, entirely foreign banks. You have no control whatsoever over them or any of them. But the State of Pennsylvania has a control over them; and consequently Pennsylvania, (if you destroy the charter,) has in her fangs the purse of the nation; which, as the gentleman from Virginia (Mr. EPPES) says, constitutes the sinews of war. Pennsylvania possesses within herself the physical force; a force that would be formidable to the whole United States, were it arrayed against them. And is it entirely without precedent, for the destinies of one State to be wielded by a single individual? If it is not, then the destinies of Pennsylvania, holding as she will both the purse and the sword, might be wielded by some ambitious and assuming man. And if such an event should happen, which God forbid! where then are your political liberties? Precisely as safe and secure as if they were lodged in the hands of Napoleon the Great!

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What constitutes the power and influence of a State? Certainly money and physical force are the principal and most requisite ingredients; and by refusing to renew the charter, you throw into the hands of the great States all the additional influence from the resources of the nation being confided to their hands. And at the same time you reduce to the condition of mere cyphers the States of North Carolina, Tennessee, Ohio, Kentucky, and all the New England States except Massachusetts, by withdrawing entirely from their control and management the public purse of the nation.

I do not wish, Mr. Speaker, to be understood to entertain or insinuate any distrust whatsoever of the integrity or loyalty of the great and respectable State of Pennsylvania.

If, sir, the destinies of this nation are to become dependent on any one State in the Union, I have no predilection for any State: I have no unwillingness that Pennsylvania should be that State. But, sir, I protest solemnly against holding, by so feeble and precarious a tenure, the great and inestimable privileges of self-government.

But, it is said, we may console ourselves with the improbability of this great State's making any improper use of the powers vested in their hands, by a refusal to renew this charter. Sir, when at peace with foreign nations, whilst harmony prevails at home, no immediate danger is to be apprehended; but when your political horizon is black with internal tumult, when you are menaced with external danger, and treason stalks abroad with gigantic strides, it is then that the colossal power of the great States become most eminently dangerous; it is then that it may be exercised to the utter humiliation of the little States, and the subversion of your Federal Government, by withholding from your hands the fiscal resources of the nation. To guard, when it may be practicable, against possible events so disastrous, becomes the imperious duty of every sound and honest politician.

There is a view of this question which strikes me with great force, and to mention which was my principal motive in rising at this time. It has been repeatedly stated by the opposers of this bill, that the revenue could, with equal facility, be collected through the agency of the State banks. Is it then their object to deposite the public money in State banks? I pause for a reply. The silence which pervades this Hall, solemnly answers this question in the affirmative. It is, then, intended to deposite the revenue and resources of the United States of America in the coffers of State banks! I say this is dangerous, unjust and manifestly partial.

The President, Directors, and Company of the United States' Bank offer you \$1,500,000 to renew their charter; and in the bill, now before you, a privilege is reserved to the United States of increasing this stock, by a contribution of \$5,000,000, on the part and for the benefit of the United States. The profit arising from the sale of this stock, if you are disposed to sell it, would be more than \$1,000,000. Suppose, then, that

the United States' Bank would be willing to give \$1,000,000 for the banking privilege alone, (which seems to me to be a very large allowance,) the remaining one million two hundred and fifty thousand dollars are given to the United States, for the benefit arising to the bank from the deposits of the public money.

This sum will be increased to at least \$2,000,000, or perhaps \$3,000,000 or \$4,000,000, by that part of the bill before you, requiring the Bank of the United States to pay interest at the rate of three per cent. on all sums which may remain in the hands of the bank longer than one year. This increased sum, arising out of the use of public money, is as much the *bona fide* property of the people of the United States as any other portion of their revenue. The proportion of this sum, to which my constituents (the people of Kentucky) are entitled, is about \$100,000. And it is now gravely proposed to wrest this sum from their hands, not for the public service or public good, but for the express purpose of putting it into the pockets of the wealthy capitalists of Pennsylvania!—the State bank stockholders of Massachusetts, Maryland, and Virginia! Will the people cheerfully acquiesce in this unjust prostitution of their honest earnings? If they do, I have mistaken their character.

When these are some of the consequences which are seen to result from a refusal to renew the charter of the United States' Bank, no man can be much at a loss to account for the instructions given by Virginia, Massachusetts, and Pennsylvania, to their Senators and Representatives in Congress.

My friend (Mr. JOHNSON) has informed you, that a renewal of this charter would be granting an exclusive privilege to a few stockholders, and exclusive privileges are odious. If my worthy friend would only examine the bill now before you, he would find that it is not an exclusive privilege. For Congress have therein reserved to themselves the power to establish a new bank whenever policy or prudence shall dictate its necessity or expediency; and this power reserved by Congress, of establishing a new bank, will insure to the United States a prudent and faithful management of the money which it is proposed to confide to the direction of the President, Directors, and Company of the United States' Bank; which, it is acknowledged by the gentleman from Virginia, (Mr. EPPES,) has hitherto been managed with great propriety.

The gentleman from Virginia (Mr. EPPES) stated that this question was originally decided as a party question. In this the gentleman is certainly mistaken. It was not originally considered a party question. In order to satisfy my own mind on this subject, I have examined the Journal of Congress for the year 1791; which has been explained to me by the gentleman from North Carolina, (Mr. MACON,) the oldest member in this House. And I find there were thirty-nine votes in favor of the bank originally; of which, eleven were Republican; and of the nineteen who voted against it, six were Federal. The fact



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proves without doubt that this question was not decided by party principles. But why, I ask, are such unceasing efforts made to prove this a party question? Is the gentleman from Virginia, (Mr. EPPES,) whose argument on this subject was directed principally to this point, fearful of a diminution of his customary weight in the scale of discussion, or of the insufficiency of his reasoning and argumentative powers to draw his friends with him on this question? And is he therefore compelled to resort to this argument, as a means of whipping into the track those who are disposed to obey the honest convictions of their own judgments? If such be his object, I can only say for myself, that I am drawn along with that gentleman, by the cords of reason, policy, and common sense alone. And, where these are too weak, I cannot be seduced from my own opinion, by the fascinating eloquence of any man, or any system of proscription or denunciation, however formidable it may be either in plan or operation.

It has been fashionable for gentleman on this floor, when speaking of party, to declare they were not party men. But, sir, I acknowledge I am a party man. And I have no hesitation in declaring that I belong to the people's party. It is for the promotion of the happiness and prosperity of the people of Kentucky in particular, and of the whole United States in general, that my services are rendered in this House. And if on this or any other occasion, the true interests of the people of Kentucky have been misunderstood by me, they will, as I know they can, select from among themselves some individual possessing more wisdom to perceive, and an inclination to pursue the means best calculated to promote the interest, happiness, and increasing prosperity of my country. And should they adopt such a measure as salutary or expedient, their decision would receive my most sincere respect and acquiescence.

It is for the protection and promotion of the best interests of my country, and of my constituents, that I have again presented myself before this House, to give a last and perhaps a feeble view of the impolicy and the deleterious consequences of the act which I fear is now about to be done.

Before I sit down, permit me to advise my political friends, who vote with me on this occasion, (for I have no right to administer advice to others,) to suffer the decisive vote now to be taken on this great and much agitated question. We have given this bill all the support constitutionally within our power; let the majority, if against us, now decide, and take on themselves that awful weight of responsibility, which awaits their decision. And if the affections of the people should, on account of the frequent appeals made to their passions and prejudices, recede for a moment, from us, it cannot but be to us a consolatory reflection, that we have discharged, with honesty and fidelity, our duty to our country. And that when reason and reflection may have resumed once more their empire, we will again be surrounded with the confidence and gratitude of the people.

Messrs. SMILIE and MACON spoke in favor of the indefinite postponement of the bill, and Mr. QUINCY against it.

About five o'clock the question was taken, and carried in the affirmative—yeas 65, nays 64, as follows:

YEAS—Lemuel J. Alston, William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Edwin Gray, James Holland, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, Samuel L. Mitchill, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Porter, Peter B. Porter, John Rea of Penn., John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, John Smilie, George Smith, Samuel Smith, Henry Southard, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

NAYS—Joseph Allen, Willis Alston, jun., Abijah Bigelow, Daniel Blaisdel, James Breckenridge, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, junior, William Ely, James Emott, William Findley, Jonathan Fisk, Barent Gardiner, David S. Garland, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Randolph, Thomas Sammons, John A. Scudder, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

And then the House adjourned until to-morrow morning eleven o'clock.

FRIDAY, January 25.

The bill from the Senate, entitled "An act authorizing the discharge of Nathaniel F. Fosdick from his imprisonment," was read twice, and committed to a Committee of the Whole to-morrow.

The bill from the Senate, entitled "An act for the relief of William Mills," was read twice, and committed to the Committee of the Whole last mentioned.

Mr. JOHN PORTER presented a petition of sundry inhabitants of Philadelphia, to the same effect

with the petition of the Synod of Pittsburg, presented the fourth instant; which was read.

#### BANKS IN THE DISTRICT OF COLUMBIA.

The House resolved itself into a Committee of the Whole, on the several bills for the incorporation of banks in the District of Columbia.

The bill for continuing the charter of the Bank of Alexandria was first taken up, and gone through without opposition.

The bill to incorporate the Bank of Washington, was next taken up.

Various amendments were proposed, &c.

Mr. ROOR said, that this bill proposed a contract between the Government and individuals. If any advantage was to accrue from it to the individuals on the one part, it ought also to accrue, reciprocally to the Government. Unquestionably, the grant of a charter to the bank would raise the value of their stock very considerably. He therefore moved the following as an amendment to the bill:

*"And provided, also, That the President and Directors of said Bank shall pay to the Commissioners of the City of Washington the sum of fifty thousand dollars, for the improvement of roads and bridges in said City."*

Mr. VAN HORN said he did not know whether it was necessary to say anything in opposition to this motion, but he would state how Maryland had managed matters of this kind. Instead of requiring a bonus from the banks, they had generally become subscribers to their stock. Virginia was also a stockholder in her bank. On each side of the District, therefore, the States had not only incorporated banks without receiving premiums therefor, but had assisted their citizens in establishing banks. As to the tax proposed to be levied on the District, Mr. VAN H. said, he hoped the House were so strongly impressed with a sense of the justice due to the District, that they would not accede to the proposition. The people of the District had no other body than Congress to whom they could look for that attention to their welfare, which other parts of the Union experienced from State Legislatures.

Mr. McKIM said he felt very little disposition to interfere in this business; but it seemed to him there must be something improper in the amendment; for, from what they had lately heard of the benefits of a bank, the Government ought to pay the stockholders fifty thousand dollars for the institution of the bank, instead of the stockholders paying them.

Mr. ROOR modified his motion so as to leave the sum blank. The conduct of Maryland might influence the gentleman from Maryland in his vote; but the Legislature of New York had taken the boon, had received money for giving charters, and applied it to useful purposes, to the support of a common school. But even Maryland derived a profit from the course it took, because it had the privilege of receiving a profit on so much of their stock, without any of the trouble. In no case, however, had heretofore occurred an opportunity, now offered, to set the example in re-

lation to all the banks in the District, except the Bank of Columbia, and the same course might be pursued with it when its charter expired. Mr. R. said he did not wish to compel them to accept charters, for if they did not choose to accept them, they might go on, as hitherto, without them.

Mr. LOVE and Mr. WRIGHT also spoke against the amendment, and Mr. HOLLAND, in favor of it. The amendment was negatived—47 to 29.

The bill was gone through, as also were the bills to incorporate the Bank of Potomac, the Farmers' Bank of Alexandria, and the Union Bank of Georgetown.

The Committee rose, and reported the bills to the House.

Mr. SMILIE protested against hurrying bills of so much importance through the House on one day; and moved an adjournment, which was carried.

#### SATURDAY, JANUARY 26.

Another member, to wit: from Massachusetts, EDWARD ST. LOE LIVERMORE, appeared, and took his seat.

A motion was made by Mr. P. B. PORTER that the House do now adjourn; and the question being taken thereon, it was determined in the negative—yeas 17, nays 61.

Mr. BASSETT laid on the table the following preamble and resolution of the Legislature of Virginia:

*"The General Assembly of Virginia view with the most serious concern the late attempts which have been made to obtain from Congress a renewal of the charter incorporating the Bank of the United States:*

*"This Assembly are deeply impressed with the conviction that the original grant of that charter was unconstitutional; that Congress have no power whatever to renew it; and that the exercise of such a power would be not only unconstitutional, but a dangerous encroachment on the sovereignty of the States; Therefore,*

*"Resolved, That the Senators of this State, in the Congress of the United States, be instructed, and our Representatives most earnestly requested, in the execution of their duties, as faithful Representatives of their country, to use their best efforts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States."*

On motion of Mr. EPPES, the House resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Military Establishment for the year 1811; the bill making appropriations for the support of the Naval Establishment of the United States, for the year 1811; and the bill for the support of Government for 1811. These bills were severally reported with amendments, and ordered to be engrossed for a third reading.

The bill to incorporate the Protestant Episcopal Church of Alexandria was ordered to a third reading.

The last report of the Secretary of the Treasury, on the subject of the Bank of the United States, containing a suggestion relative to the

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supposed currency of the notes of the Bank of the United States posterior to the expiration of the charter, made on Thursday, was referred to the Committee of Ways and Means.

Mr. BARRY presented a petition of sundry inhabitants of Fayette county, in Kentucky, praying the renewal of the charter of the Bank of the United States; which was ordered to lie on the table.

Mr. BARRY also presented a petition of the mechanics and manufacturers of Lexington in Kentucky, praying the patronage and aid of Congress in the various manufacturing establishments erected within the United States.—Referred to the Committee on Commerce and Manufactures.

The following Message from the President of the United States, received yesterday, was read, and is as follows:

*To the House of Representatives of the United States:*

I transmit to the House of Representatives a report of the Superintendent of the City, stating the expenditures under the act of April 28, 1810, for the better accommodation of the General Post Office, and Patent Office, and for other purposes.

JAMES MADISON.

JANUARY 10, 1811.

The SPEAKER presented to the House a letter from J. Brooks, of the State of Kentucky, presenting, for the information of the Government, sundry papers in relation to the falls of the river Ohio, and soliciting that they may meet with such attention and consideration as the importance of the subject may seem to require; which letter was read, and ordered to lie on the table.

Mr. MONTGOMERY presented a petition of sundry inhabitants of Cecil county, in the State of Maryland, praying the attention and assistance of the National Legislature to the completion of the Delaware and Chesapeake Canal; which was referred to a Committee of the whole House on the bill from the Senate, entitled "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company."

On motion of Mr. JENNINGS,

*Resolved*, That the Committee on the Public Lands be, and they are hereby, instructed to inquire into the expediency of vesting the township of land in the district of Vincennes, located by the Secretary of the Treasury for the support of a seminary of learning, in the Legislature of the Indiana Territory, or in some other body politic, and their successors, for the purpose for which the same was reserved and located.

Mr. POINDESTER presented a memorial of the Legislature of the Mississippi Territory, praying the extension of pre-emption rights to such persons as have unavoidably been compelled to settle on lands belonging to the United States within the said Territory; which was referred to the Committee on the Public Lands.

Mr. ROOR, from the Committee of Claims, presented a bill for the relief of Charles Minifie; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. EPES presented to the House two letters

from the Secretary of the Treasury, to the Committee of Ways and Means, transmitting sundry additional estimates of appropriations for the service of the present year.

An engrossed bill to change the name of Lewis Grant, to that of Lewis Grant Davidson, was read the third time, and passed.

MONDAY, January 28.

Another member, to wit: from Massachusetts, EZÉKIEL WHITMAN, appeared, and took his seat.

On motion of Mr. McBRIDE,

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of establishing, by law, a Board of Commissioners, to ascertain and settle the claims to land in that tract to which the Indian title has been extinguished, lying within the State of Tennessee, South and West of the line established between the United States and the State of Tennessee, by an act of Congress, bearing date the eighteenth of April, 1806, commonly called the Congressional Reserve; and that the committee have leave to report by bill, or otherwise.

Mr. MORROW also presented a petition of sundry inhabitants of the third township of the eighth range in Washington county, State of Ohio, praying that the number twenty-six of the said township may be granted them for religious purposes.—Referred to the Committee on the Public Lands.

On motion of Mr. SEYBERT,

*Ordered*, That the Clerk of this House cause to be reprinted, for the use of the members, the usual number of copies of "A list of the names of persons who have invented any new or useful art, machine, manufacture, or composition of matter, or any improvement thereon, and to whom patents have issued for the same, from the office of the Secretary of State, prior to the twenty-third day of January, 1803, with the dates and general objects of such patents," which list was communicated to this House by the Secretary of State on the twenty-third day of January aforesaid.

Mr. JENNINGS presented a petition of sundry inhabitants of the Indiana Territory, praying that a road may be opened and made at the expense of the United States, from Jeffersonville, in said Territory, to Detroit, in Michigan Territory.—Referred to a select committee.

Mr. JENNINGS, Mr. SAMUEL SMITH, and Mr. SCUDDER were appointed the said committee.

## EXTENSION OF PATENT RIGHTS.

Mr. MITCHILL, from the committee to whom was referred, on the 17th instant, the petition of Benjamin Tyler, jr., and John Tyler, made a report thereon; which was read, and referred to the Committee of the whole House on the bill for the encouragement of learning and the promotion of the useful arts.

The report is as follows:

These persons state that, prior to the 20th of February, 1800, Benjamin Tyler had made a useful invention in the manner of constructing mills for grinding

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of wheat and other grain. On that day he obtained letters patent, according to law, for the same. He afterward made an assignment of the same, in due form, to the petitioners.

They further represent the necessity they felt to attempt the protection of their right, by bringing a suit against one of the several persons who had violated their privileges. They believe the defendant to have been supported by a combination of interested men. By the operation of various dilatory measures, the action, though brought on in 1804, was protracted until 1810, and eventually a verdict, which had been given for the plaintiff, was set aside by the court. The expenses and costs incurred by the petitioners, in the course and event of these proceedings, were very oppressive.

But this was not all. During the time this law-suit lasted, the reality of their alleged and patented invention became suspected, and misrepresentations were industriously prosecuted against it, to a great extent, and they thereby suffered grievous inconvenience and injury.

There was yet another aggravation of their case. The patent being limited, by the very terms of its grant, to fourteen years, approaches the term of expiration; at that time, the whole benefit of the invention will be lost to the inventor, and his assignees; and they request that, under the extreme hardship of their situation, involved in controversy, deprived of time, exhausted of money, persecuted by opposition, and disappointed in their expectations, aggravated by the shortness of their patent's duration, they may be indulged with a renewal of their privileges for another term of fourteen years, by a special statute in their favor.

By various and respectable testimonials, accompanying the memorial, it appears that the improvement under consideration, known by the name of "Tyler's patent wry-fly wheel," has been found to be very useful in the mechanism of corn, and wheat, and paper mills. It is simple and cheap in its construction; less liable to want repairs; and more secure from the action of frost; while it combines strength with celerity of motion, supersedes the necessity of the large water-wheel and ordinary cog-wheels, and performs the same work with half the water that is required for an under-shot wheel.

The committee, on weighing these several matters, are of opinion that the case of the petitioners comes within the spirit of the provision contained in the Constitution for the benefit of inventors and discoverers. The merit of the application is enhanced by the tedious and expensive law-suits in which he has the misfortune to be entangled. It is, at the same time, very questionable, whether Congress ought to indulge the practice, already begun, of legislating upon individual cases. It would be more correct and convenient to provide for the renewal of letters patent by a general regulation. There will be no end to applications of this kind, while the patent laws remain in their present imperfect state; while, by a discreet and early revision of them, this and all other similar cases, may be fully comprehended. By this means sound legislation will most effectually subserve the interest of the citizen. A mode of renewal has already been recommended, and forms a distinct section of the "bill for the encouragement of learning, and the promotion of the useful arts," now lying in Committee of the whole House. It is, therefore, recommended to agree to the following resolutions:

*Resolved*, That the request of the petitioners is reasonable, and ought to be granted.

*Resolved*, That provision ought to be made, by law, for the renewal of letters patent, in favor of inventors and discoverers, in certain cases.

The bill making appropriations for the support of the Military Establishment for the year 1811; the bill making appropriations for the support of the Navy of the United States for the year 1811; the bill making appropriations for the support of Government for the year 1811; the bill for incorporating the Protestant Episcopal Church of Alexandria; were severally read a third time, and passed.

#### UNADJUSTED BALANCES.

Mr. SWOOPÉ offered the following resolution:

*Resolved*, That the Comptroller of the Treasury be directed to inform the House whether any, and, if any, what, steps have been taken to effect a settlement at the Treasury Department of the accounts of Joel Barlow, late Agent at Algiers, and Charles Pinckney, late Minister to Spain, and what amount of unliquidated balances remains on the books of the Treasury against the said Joel Barlow.

Mr. BACON said he had no objection to the resolution, as far as it went, but that other items might be, with propriety, added to it. To allow time to prepare such an amendment, as appeared to him proper, he moved that it lie on the table.

Mr. SWOOPÉ said, he had no objection to inquire into other causes of delinquency, but he had a particular view to these two. In the case of Mr. Pinckney he did not know that the balance against him would be increased; but, in relation to Mr. Barlow, he had been informed that it would appear that the balance against him of \$360,000 now standing, would be increased by an additional amount of \$370,000. He was opposed to the resolution lying on the table, and wished the gentleman to offer his amendment at this time.

Mr. BACON said it was rather hard to be called on at this moment to act upon the resolution, and to extract, from so long a list of defaulters, those cases which he deemed most proper to be inquired into. Whatever knowledge the gentleman from Virginia might have acquired from out-of-door informants, Mr. B. said, he had none such, and could not, at a moment's notice, prepare the amendment which he wished to propose.

Mr. QUINCY said, if any benefit could arise from the motion's lying on the table, he would agree to it, but, because it was desirable to extend the inquiry, was no reason why this resolution should not be adopted. It was, in no instance, a good reason against entering into an inquiry in relation to one individual, that others were implicated.

Mr. MITCHELL was in favor of the resolution's lying on the table, not that he had any aversion to the inquiry into the conduct of those gentlemen, or any other, in relation to expenditures of the public money. He wished time, however, to judge whether it was proper or not. This subject had been long before the public eye without

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requiring inquiry, and he wished to ascertain whether it was now necessary or not.

Mr. SHEFFEY believed the inquiry ought to embrace not only the persons named, but all others to whom balances were reported to be due. And, if it was in order, he should move an amendment to that effect.

Mr. MACON said it was but reasonable to vote for the motion of the gentleman from Massachusetts, who wished the resolution to lie on the table that he might have time to prepare an amendment. This was no great indulgence, for it was what took place every day in the House. As for himself, Mr. M. said, he should like to know the state of all those balances. Wherever anything was due, and payments withheld, suits ought to be commenced.

Mr. BACON withdrew his motion to lie on the table, with a view to admit Mr. SHEFFEY's amendment.

Mr. SHEFFEY then moved to strike out so much of the resolution as alludes, by name, to Messrs. Barlow and Pinckney, and insert the following:

"The several persons engaged in the service of the United States abroad, intrusted with public money, against whom balances appear on the books of the Treasury Department."

Mr. PITKIN was in favor of the proposed amendment. He said gentlemen would recollect the accounts of Tobias Lear, which were laid before the House some time ago, which were the most extraordinary accounts he had ever seen, and of which he did not believe the public had any idea, before they were published. A large sum was now charged, in the Comptroller's report, to the debit of Mr. Lear. Mr. P. said, he wished to know whether these accounts, to a large amount, had passed the Treasury; because, if they had, the subject certainly required the interposition of the House. It was true, that the accounts of agents abroad could not be settled so expeditiously as those at home, but it was proper that the House should know how and when they were settled. The amount of money expended by the United States along the coast of Barbary had been immense; and, if the accounts of Mr. Barlow were not yet settled, it was extraordinary indeed. But, Mr. P. said, he wished to see a full statement of all these balances, and therefore had moved the resolution.

Mr. EPPES said, that he too wished to see all these accounts, and also another item, viz: the account of the expenses attending the first treaty with Algiers. If the information he had in relation to it was correct, it would be found that there had been, under that treaty, some expenditures of a more extraordinary kind than any in modern times. He, therefore, moved to add to the amendment of Mr. SHEFFEY the following words: "And also the expenses of the treaty with Algiers."

Mr. QUINCY was opposed to the motions for amendment, and that on a general principle. He had no objection to call for the information they embraced; but, if it was the wish of the House to prevent specific inquiry into the conduct of a

particular individual, they could not do better than to load the inquiry with a crowd of other matters not at all relating to it. He had no objection to vote for this information, if proposed separately; but he was averse to connecting with this particular resolution any general inquiry embracing a variety of objects.

Mr. EPPES said that he was misunderstood, if it was supposed he intended, by his motion, to screen any person from inquiry.

Mr. QUINCY said, he had not attributed such an intention to him.

Mr. EPPES continued.—If any inquiry was made, what ought it to be? Were Joel Barlow or Charles Pinckney the only persons against whom balances were reported? No; there was a volume of such cases. A gentleman came forward, and, instead of taking the whole, had selected two individuals for inquiry. Mr. E. did not consider this a proper course of proceeding; for certainly any inquiry on the subject ought to embrace all the cases. There was another objection to this inquiry; because every one knew that these sums were not due by the persons to whom they were debited. It was not six months since a balance much larger than the amount in this case, was exhibited against Timothy Pickering, which, however, had since been adjusted. No doubt these moneys had all been accounted for, but no final settlement had yet taken place. Mr. E. thought the amendment of his colleague perfectly right, because it proposed to pass in review the whole of the cases.

Mr. PICKMAN moved that the subject should lie on the table, because it appeared to him to be leading to a discussion which would occupy the day.

The motion was agreed to, and the resolution was ordered to lie on the table.

#### BANKS IN THE DISTRICT OF COLUMBIA.

On motion of Mr. LEWIS, the House resumed the consideration of the report of the Committee of the Whole on bills for incorporating several banks within the District of Columbia.

Mr. RANDOLPH moved to recommit the bills to a select committee, on the ground of defect in the details.

MESSRS. RANDOLPH, SMILIE, BACON, CHEVES, and STANLEY, supported the recommitment, and MESSRS. LEWIS, LOVE, KEY, VAN HORN, SHEFFEY, GHOLSON, and WRIGHT, opposed it.

Mr. SHEFFEY called for a division of the question on the motion, so as to take the question separately on the recommitment of the bill for the extension of the charter of the Bank of Alexandria.

On the question, there were for recommitment, 43; against it, 53.

The question was next taken separately on recommitting the rest of the bills, and carried, by majorities of five, ten, and fifteen.

Before the question was taken on the Alexandria Bank bill, it being rather a late hour, (past four,) the House adjourned.

H. OF R.

Amendment to the Constitution.

JANUARY, 1811.

TUESDAY, January 29.

Mr. GOLD, from the committee appointed on the seventeenth instant, presented a bill providing for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States; which was read twice, and committed to a Committee of the Whole on Saturday next.

A motion was made by Mr. HAVEN that the House do now adjourn; and, the question being taken, it was determined in the negative—yeas 19, nays 59.

Mr. FISK moved that the House do come to the following resolution:

*Resolved*, That the Secretary of State cause to be printed, for the use of this House, one thousand copies of the returns of the third census, as soon as the same shall be received at the Department of State.

The resolution was read, and ordered to be postponed until Wednesday, the 6th of next February.

Mr. EPPES, from the Committee of Foreign Relations, reported the following section as a proper amendment to the bill "supplemental to the act concerning the commercial intercourse between the United States and Great Britain and France, and for other purposes." Strike out the ninth section and insert:

*"And be it further enacted*, That no vessel owned wholly by a citizen or citizens of the United States, which shall have departed from a British port, prior to the second day of February next, and no merchandise owned wholly by a citizen or citizens of the United States imported in such vessel, shall be liable to seizure or forfeiture on account of any infraction or presumed infraction of the provisions of this act or of the act to which this act is a supplement."

#### AMENDMENT TO THE CONSTITUTION.

Mr. WRIGHT.—Believing, as I do, that the Constitution of the United States is not perfect, and as provision is made in the body of the instrument for amending its imperfections, in the manner therein prescribed, I feel it an imperious duty to propose an amendment to it. Here let me remark, that its adoption was opposed by the patriots of America, at the time of its ratification, because of omissions important to liberty. It had not guarded against an establishment of religion; it had not secured the right of the people to keep and bear arms; it had not guarded against soldiers being quartered in our houses in time of peace, without our consent, it had not guarded against warrants being issued without oath; it had not guarded against a man's being put to answer without previous indictment; it had not secured the criminal in the trial by jury; it had not secured the trial by jury in cases of common law, and these omissions as due guards to the liberty of the citizens stand recorded in these amendments almost coeval with the instrument. The terms Federal and anti-Federal had their origin in the zeal of the respective parties at that time; the one insisting on its adoption with all these imperfections on its head, while the other insisted on these amendments; and it has always appeared to me, that on the adoption of the amendments that those who were called anti-

Federals were really the Federals, the Constitution being perfected by the adoption of these amendments. The foregoing amendments test its original imperfection, and I trust will lead this House to a temperate examination of the amendment I now propose to submit.

The amendment, sir, is to place the judiciary of the United States on the same foundation that the British judiciary are placed by their laws; by enabling the President, on the joint address of the Senate and House of Representatives of the United States, to remove a judge.

In England the judges held their commissions during the pleasure of the Crown, till the time of Charles the First, when the Parliament imposed upon the King the necessity of granting them during good behaviour; till then the Crown, as the fountain of justice, held the uncontrolled direction of the commissions of the judges. At the same time, sir, the High Commission Court and Star Chamber were abolished. In the thirteenth year of William the Third, the judges, by statute, were to hold their commissions during good behaviour, and by the same statute they may be removed by the joint address of both Houses of Parliament; and here let me remark, that under that tenure and responsibility, the British judiciary have attained a celebrity in history for their judicial integrity and correctness highly honorable to them, and which this amendment, I fondly hope, in time, may correctly attach to the judiciary of the United States. There are a variety of cases where the exercise of this power may be necessary for the safety of the people, which ought to be the supreme law. This power, I trust, will never be abused by the American Congress. I do not recollect a case under the British Government, where for fifty years it has been exercised, and I trust we shall not ascribe to ourselves an indisposition to the correct discharge of those functions, which have been correctly exercised or rather not exercised at all for fifty years by the British Government. If in England, where the Crown is hereditary, the Lords hereditary and for life, and the Commons for seven years, this tenure and responsibility has been found necessary, I trust in this Government, where the President is for four years, the Senate for six, and the House of Representatives for two years, this judicial tenure and responsibility will be thought expedient, and that this amendment will be adopted by Congress, particularly as it is but a preliminary decision—as it must be submitted to the States, and cannot go into operation but by the consent of three-fourths of the United States. I have therefore thought fit to submit this resolution, and hope the reasons assigned will induce you to believe that I think it of such importance to the nation as to entitle it to your attention.

Mr. W. then submitted the following resolutions:

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following section be submitted to the Legislatures of the several States, which, when ratified by the Le-

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gislatures of three-fourths of the States, shall be valid and binding as a part of the Constitution of the United States:

*Resolved*, That the judges, both of the Supreme and Inferior Courts, may be removed from office on the joint address of the Senate and House of Representatives of the United States.

The House refused to consider the motion—45 to 38.

#### BANK OF ALEXANDRIA.

The House took up the report of the Committee of the Whole on the bill for reincorporating the Bank of Alexandria.

Mr. FISK moved to amend the bill so as to limit its duration to ten years, instead of twenty, as proposed.—Agreed to.

Mr. MONTGOMERY moved to amend it by inserting a clause, providing that the discounts thereby made should "never exceed twice the amount of its capital stock paid in."—Agreed to.

Mr. Root said it had been perhaps correctly observed, that the avenues to the Capitol were beset with petitioners from this District, with bills and briefs ready drawn in their hands. Who were these petitioners? The wealthy or the populace, the body of the people of the District? Not the latter; they did not attend levees and drawing-rooms, or give dinners and parties. They were not represented on the floor. He now rose as their advocate. He was for doing the same justice to them as to the patricians. After repeating the idea before expressed by him, that all contracts should be reciprocal, Mr. R. proposed the following amendment to the bill:

*"And provided*, That the President and Directors of the Bank of Alexandria, on the first Monday in January in every year, during the continuance of this act, pay to the Mayor and Commonalty of Alexandria, one per cent. on the amount of the capital stock of said bank, to be applied to the support of free schools for the instruction of children of every description in the county of Alexandria."

This amendment, proposing at once to lay a tax and make an appropriation, was, on the suggestion of Mr. RANDOLPH, declared by the Speaker to be out of order, as every such motion must be first made in Committee of the Whole.

Mr. Root then moved to recommit the bill, with the express view of making the amendment which he was not at liberty to offer in the House.

Mr. SMILIE said, that when a privilege was granted, there ought to be an equivalent in return. Why should it be thought strange that in this instance they should ask something in return for what they were about to give? Was it unusual? The Bank of the United States had proposed to give a bonus for a renewal of its charter. Mr. S. said he thought banks mischievous; but if we must be saddled with them, we ought to make the best of them.

Mr. RHEA said, that so long as he had a seat on the floor, he should never vote to make Congress a broker's shop for selling bank charters. The bill was good enough for him as it stood. It

might be made so good by these amendments that he should be obliged to vote against it.

Mr. Root said, he felt quite indifferent as to the particular application of the money to be derived from the bank under his amendment, so that it was applied for the benefit of the great mass of the community. He had understood that this bank had divided about nine per cent. per annum; and renewing the charter would, therefore, be a boon to the stockholders of from thirty to forty per cent. on the amount of capital. The wealthy of the District were about to have a sum of money bestowed on them; and surely they might relinquish a third of the gift or one per cent. for the general benefit. Mr. R. said, as he was not pertinacious as to the amount of tax, he would modify his motion so as to leave the amount blank.

Mr. VAN HORN read a statement of the dividends by this bank, showing its average dividend to have been about seven and a half per cent. per annum, not as much as any of the banks in Baltimore; and yet the State of Maryland had never asked a premium for chartering a bank. And were the people of this District, to whom the gentleman was desirous of being so kind, and keeping them from their own worst enemies, themselves, to be studiously treated worse than those of the neighboring States? The bill was already now more restricted than any charter he had ever seen or heard of.

Mr. McKIM said he never would consent to grant a charter which was not bottomed on the public good. If they granted a charter for the public good with one hand, why should they press it down with a tax on the other? The House certainly acted from its own free will; the body now petitioning could not compel Congress to grant a charter. And if it was granted from free will, why accompany it with a tax?

Mr. STANLEY could see no more propriety in taxing this than other corporations in the District, which had been granted by Congress without requiring any consideration therefor. Mr. S. also replied to Mr. Root's remarks on the subject of the operation of banks; which, Mr. S. said, was more beneficial to men of small capital than to men of weighty capitals, whose immense wealth would enable them, if no banks existed, to control the whole commerce of the District.

The question on agreeing to Mr. Root's motion for amendment was decided in the negative—yeas 22, nays 89, as follows:

YEAS—David Bard, Adam Boyd, Joseph Calhoun, Matthew Clay, William Crawford, Joseph Desha, Barzillai Gannett, Daniel Heister, James Holland, Jacob Hufty, William McKinley, Gurdon S. Mumford, Thomas Newbold, John Nicholson, John Roane, Erastus Root, Ebenezer Seaver, John Smilie, Richard Stanford, Charles Turner, junior, Robert Weakley, and Robert Whitehill.

NAYS—Joseph Allen, Lemuel J. Alston, Willis Alston, jr., William Anderson, William T. Barry, Burwell Bassett, William W. Bibb, Abijah Bigelow, James Breckenridge, Robert Brown, William Butler, John

Campbell, John C. Chamberlain, William Chamberlin, Landon Cheves, Martin Chittenden, James Cochran, Richard Cutts, John Davenport, jr., John Dawson, William Ely, James Emott, William Findley, Jonathan Fisk, Meshack Franklin, Barent Gardener, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Thomas Kenan, William Kennedy, Philip B. Key, Joseph Lewis, jr., Edward St. Loë Livermore, Robert Le Roy Livingston, John Love, Vincent Matthews, Archibald McBryde, Alexander McKim, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, John Montgomery, Thos. Moore, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, John Stanley, Jas. Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Uri Tracy, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, James Wilson, Richard Winn, Robert Witherspoon, and Robert Wright.

Mr. CHEVES expressed a doubt, as Congress were in this case legislating in the capacity of a Legislature of the Territory, and not as the Congress of the United States, whether they could pass a law in relation to the Territory which should have operation in the States. He therefore moved to amend the section for punishing counterfeiters so as to make them amenable to "any court in the District of Columbia," instead of "any court of the United States," having criminal jurisdiction, &c.

Messrs. SAWYER, LOVE, and KEY, opposed the motion, and Mr. RANDOLPH supported it.

Before a question was taken on the motion, the House adjourned.

### WEDNESDAY, January 30.

Mr. McKIM presented a petition of James Smith, physician, of the city of Baltimore, praying the patronage and aid of Congress in a plan to introduce into general use, in the District of Columbia, the genuine vaccine matter.—Referred to a select committee.

Mr. McKIM, Mr. LOVE, and Mr. KNICKERBACKER, were appointed the committee.

Mr. JENNINGS, from the committee to whom was referred, on the 24th instant, a memorial of the Legislature of Indiana Territory, made a report thereon; which was read, and referred to the Committee of the whole House on the bill authorizing the election of Sheriffs in the Indiana Territory.

Mr. MORROW, from the Committee on the Public Lands, made a report on the petition of the United Illinois and Wabash Land Companies.—Referred to a Committee of the Whole on Friday, the 8th February next.

Mr. BASSETT, from the Committee on the Naval Establishment, presented a bill making an

additional appropriation for the Navy; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. GOLD, from the committee appointed, on the 23d instant, on the petition of Daniel Pettibone, presented a bill to provide for warming and ventilating the Hall of Representatives by a rarefying air stove; which was read twice, and referred to a Committee of the Whole on Wednesday next.

Mr. SEAVER, from the committee appointed on the 15th instant, presented a bill authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex Canal, in the State of Massachusetts; which was read twice, and committed to a Committee of the Whole on Tuesday next.

On motion of Mr. PITKIN,

Ordered, That the Committee of the Whole House be discharged from the consideration of the bill from the Senate, entitled "An act for the relief of William Mills," and that it be referred to a select committee.

Mr. PITKIN, Mr. BASSETT, Mr. WHITMAN, Mr. HELMS, and Mr. CHITTENDEN, were appointed the committee.

A Message was received from the President of the United States, transmitting to Congress copies of a letter from the Secretary of the Treasury, accompanied by copies of the "laws, treaties, and other documents, relative to the public lands," as collected and arranged pursuant to the act passed April 27, 1810.—Referred to a select committee.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Thomas Campbell;" to which they desire the concurrence of this House.

### THE BANK OF ALEXANDRIA.

The House resumed the consideration of the bill respecting the Bank of Alexandria.

Mr. LEWIS moved to strike out the whole section of the bill respecting punishing counterfeiters of the bills of the bank; which of course superseded the motion, pending when the House adjourned last evening, to amend the section. Motion agreed to without opposition.

Mr. SMILIE stated that four bills on the subject of banks in the District had already been committed to a select committee. That committee had met on the subject, and, judging from appearances, he thought there was a disposition to pass at least some of the bills. If any were passed, he thought their provisions ought to be uniform; and to accomplish that object, moved to refer the bill to the same committee to whom the other bills were referred.

Mr. RANDOLPH supported and Mr. LOVE opposed the motion; which was negatived by a small majority.

The bill was then ordered to be engrossed for a third reading to-morrow.

### AMENDMENT TO THE CONSTITUTION.

The House resolved itself into a Committee of the Whole on the state of the Union, to which committee was referred the report of the select



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committee on the subject of Mr. MACON's amendment.

Mr. HUBBARD, after stating some objections to the resolution, because not sufficiently comprehensive, as including civil appointments only, and as not including those who might have been legislators at the time of the election of the President, who were as liable to improper influence as those elected during the Presidential term, moved to amend the report of the committee so as to read as follows:

"No Senator or Representative who shall have been such at the time of the election of any President, or during the term for which he shall have been elected, shall be appointed to any office, place, or appointment, until the expiration of the Presidential term in which such person shall have been the Senator or Representative aforesaid."

Mr. MACON objected to the amendment, because too broad, and going to defeat the object of his motion, by giving too great a latitude to its provisions. He remarked that the influence on the caucus nomination for President, &c., ought to have no weight; because the caucus was a body unknown to the Constitution, and on the existence of which the House could not legislate. He was desirous to give those coming into office the choice of the whole nation for the Secretaries and officers of Government; and was for that reason, among others, opposed to the amendment, which would go to restrict the choice of the President, so as to prevent him from selecting those he might prefer, because they were members of Congress.

Mr. WRIGHT then moved that the Committee should rise, with a view to having the amendment printed.—Motion lost, ayes 28.

Mr. SAWYER said, that he thought this subject had been long enough before the House for every member to have made up his mind upon it; and although he did not like that this speculative question should supersede the ordinary business of the House at this late period of the session, yet, as it was before the House, he should take this occasion to assign the few insurmountable objections which he had to the adoption of it—premiering by the way, that in order to have made the system complete, it would have been well for the gentleman to have extended it to ourselves, by limiting the periods of our own service in this House. If we commence the career of political purgation, it ought to be carried to its full length and not stopped half-way. Though we are elected by the people, yet our posts are of as much importance as appointments by the President, at least if one may judge from our fondness for clinging on to them. And, I think, the same danger exists of the exercise of undue influence by members of long standing in the appointment of others as of themselves. Men that would act from corrupt motives might easily conceal their conduct by retaining their seats here, while they enjoyed an annual stipend or participated in the profits of office by a kind of dormant partnership. He believed this evil existed pretty extensively in some of the Kingdoms of Europe. If a member is determined

to be a knave you cannot prevent him; and he would not deprive the Government of the services of a respectable class of men, upon a vain experiment of making them honest. It will only be putting them in mind of expedients to evade your provisions, which they might not otherwise have thought of, and corrupt the moral and political integrity of the House. But, I consider the proposed amendment, (said Mr. S.) though far from being intended as such, as one of the greatest insults that could be offered to the House. What is the language which it holds out? Why, that we are all such office hunters, and have obtained such an undue share of Executive favors, it is necessary to stop the evil. We are no longer fit to be trusted, but must be bound down, the degraded victims of our own unbridled ambition! Is this House prepared to pass such a disgraceful sentence upon itself? To put a mark of humiliation upon itself, to disfranchise itself of the common privileges of a citizen? And all this, forsooth, because a few may have been selected from amongst us to preside over Territories—stations unworthy to be compared to seats in this House!

As for the charge of office hunting, (Mr. S. said,) I shall not deign to notice it as applied to myself. I shall always act upon principles of self-justification, and while I am at peace with my conscience, I shall care very little what others may think of my motives. But how other gentlemen can talk about office hunting after retaining their seats for twenty years, I cannot conceive. [Here Mr. RANDOLPH called the gentleman to order, upon the ground of his alluding to the gentleman from North Carolina, Mr. MACON.] Mr. S. said, he should be very sorry to say anything of that gentleman that should be considered out of order. He merely stated twenty years as an example, but if he placed it upon ten years the same conclusion would follow. [The Chairman allowed him to proceed.] Perhaps, said Mr. S., an attempt may be made to draw a distinction between offices bestowed immediately by the people, and mediately by their servants. Be it so. Whoever does shall be welcome to all the credit his ingenuity can procure him. And if he can show they possess not similar properties of honor and profit, and that the same means and passions are not employed to procure and maintain them, I will admit the superiority of his talents. But unless he can, I trust he will act up to his professions and bring his principles home, or cease to talk about independence of political conduct and purity of Republican principles. Not that I feel so much false tenderness for the Constitution as to be afraid to touch it, if occasion required, but by adverting to that instrument it will appear that this very question was considered, and the proper remedy applied. The second article of the sixth section says, "no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created or the emoluments of which shall have been increased during such time; and no person holding an of-

"office under the United States shall be a member of either House during his continuance in office;" Here the Convention thinks it sufficient to prevent any undue influence of Congress in the creation of new offices by excluding them from such, as well as to prohibit the union in one person of Executive and Legislative powers, without at the same time abridging them of those general powers and privileges which had been extended alike to all. I am aware that the proposed amendment is intended to extend this provision, by increasing the number of disabilities, and I quote it merely to show, that the subject had already been before the proper tribunal, and that they had expressed a disapprobation of farther restrictions, as far as negative provisions could imply. If they thought there was still too great a latitude left, they may also have thought that there would have been too much parsimony dealt to the organ of appointments by excluding from its choice a body of men, by their very selection and the opportunity afforded of an acquaintance with their qualifications, the most proper for the exercise of its judgment. So far as regards ourselves, said Mr. S., I admit we may subject ourselves to what conditions we please; but there is another party concerned in this decision. We are curtailing the exercise of Executive discretion, by denying to it the right to require the assistance of a useful class of people. The people have reserved to their Executive, for their own benefit, the greatest possible range in the choice of their servants; and, if the question were now before me as one of the people, I would not consent to deprive the Government of the power of selecting whatever characters it might judge best calculated to promote the public good. If the Executive made an improper choice, I would hold it responsible; and as I would blame it for making a bad choice, I ought not to lessen its chance of making a good one.

The question was taken on Mr. HUBBARD's proposed amendment, and decided in the negative—59 to 35.

Mr. QUINCY moved the following proposition as an amendment, to be added to the resolution:

"And no person, standing to any Senator or Representative in the relation of father, brother, or son, by blood or marriage, shall be appointed to any civil office under the United States, or shall receive any place, agency, contract, or emolument, from or under any department or officer thereof."

Mr. QUINCY.—Mr. Chairman: The amendment to the Constitution, proposed by the gentleman from North Carolina, is of the nature of a remedy for an evil. The proposition which I have the honor to submit, is similar in principle, but embraces a wider sphere of action, and is offered as a medicament of a higher power. His amendment has for its object, to purify the Legislature of that corruption which springs from the hope of office for ourselves. My proposition has for its object to purify the Legislature of that corruption which springs from the attainment of office for our relations. And if the House will take the trouble to analyze the respective natures of these two evils,

it will find that the evil to which my proposition refers, is higher in nature, and more intense in degree than that to which the amendment of the gentleman from North Carolina has reference. That is to say, the present attainment of office for our relations, for those near and dear to us, who are parts of our blood, and, if our natures be generous, parts of ourselves, is an application to the principle of human action, as much more strong and alluring than the distant hope of office for ourselves—fruition is a nearer approximation to bliss than expectation; or as a payment in hand is better than a payment in promise.

I shall offer a few considerations in support of my proposition, not only by way of elucidation to this House, but also for the purpose of attracting the attention of the public to the subject. For I am well aware, that let it be discussed when it will, and under what Administration it will, it cannot fail to be in this and the other branch of the Legislature a bitter pill; and unless it have the aid of external pressure, it will stick in the passage.

I know the nature of the subject, and am aware that it is very delicate and very critical. Why, sir, it relates to nothing less than our blood and our purses; objects, of all others, the most squeamishly sensitive, and the most jealous of other people's interference. It shall be my endeavor, however, to handle the topic with as much caution as possible. And in order to avoid all appearance of party or personality, I shall speak concerning things past and things future, without particular notice of things present.

In the first place, I would remark that our general mode of speaking, both on this floor and in common conversation, concerning this power of distributing offices, is, in my judgment, not strictly accurate in itself, and may be questioned as unjust to the President of the United States. It is denominated "Executive influence," by way of analogy, and in conformity, perhaps, to the practice in Great Britain, where the Crown, being the proprietor of offices, distributes them at will among favorites. But the state of things is different in this country. Here the Executive has no proprietary interest in the offices which he distributes; he does not create them; he does not, except in a few instances, even designate the amount of emolument. All these, in fact, proceed from the Legislature. We are the creators, he is the channel for communicating them to their objects; so that, if the members of this and the other branch of the Legislature become venal in this country, they are, to say the least, half workers in their own corruption. A mode of expression ought not therefore to be used, tending to throw the guilt exclusively on another branch of the Government. Another phrase is more just and appropriate. Sir, it ought to be called *pecuniary influence*—the love of money wrapped up in very thin covers and disguises, called offices for ourselves and offices for our relations.

I shall consider the principle of this amendment and proposition in relation to the Constitution, its nature, and necessity.

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If we look into the Constitution, we shall find no part more palpably defective than its provisions against the effect of that Executive influence, as it is called, resulting from the power of distributing offices at pleasure among the members of both branches of the Legislature and their relations. There is, I think, but one provision upon the subject. This is contained in the following clause of the sixth section of the first article:

“No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time.”

This provision, I say, considered as a security against that corruption, which springs from the distribution of offices, is palpably defective. In relation to its objects it is limited, and in its means wants efficiency. What are its objects? It aims only to prevent multiplication of offices and increase of their emolument. So that provided we do not create new offices, nor increase the old emolument, the craving spirit of avarice has free range to solicit and corrupt both branches of the Legislature. All the numerous allurements of existing offices, all the rich reward of established salaries, are permitted to play with their bewitching infatuation before our eyes. So long as a man does not attempt to take the fruit of the seed of his own sowing, he may botanize at his pleasure in this great Executive garden, and whether he seek flower or fruit, he may, to the full, please his fancy or satiate his appetite. And if we consider the means, it will be found that they are inadequate. There is but one limitation “during the time for which he was elected.” What is this, considered as security? It is scarcely less than totally inefficient. Notwithstanding this provision a man may—I say may, Mr. Chairman, for I would not be understood to affirm that any such creature now exists, or has ever heretofore appeared in this or the other branch of the Legislature, but I speak of the possibility of that gross and debasing corruption, such as has appeared in other countries, and may, therefore, hereafter appear in this—a man may be a mere spaniel to the Executive; he may fetch or carry, run upon all his errands, and, at his whistle, roll himself over on these floors without regard to either coat or conscience, and on the last day of the term for which he was elected, when, perhaps, he has been ejected from the people’s favor, as foul and odious, he may, in spite of this provision, be instrumental in creating an office, or increasing an emolument of which the very next day he shall take the profits. Is not such a provision, considered as a security against corruption from the distribution of offices, like tantalism to this people? I would not, however, be thought to hold at a mean rate this part of our Constitution. Notwithstanding its deficiency it is precious, because it recognises the possibility of the existence of this principle of corruption in this and the other branch of the Legislature; because it is a standing and solemn warning against its effects. It gives us ground

to stand upon, and, through the instrumentality of the powers of amendment, may enable this people to wrench out of this soil, by the roots, this foul and growing pollution.

If we compare the principle of this amendment and my proposition with the principles of the Constitution, we shall find that it no less harmonizes with them than it does with this provision of the instrument. If there be a principle universally allowed by men of all parties to be the basis of liberty, with the existence of which, it is admitted on all hands, that the essence of freedom is identified, it is that the three great departments of power, the Legislative, Executive, and Judicial, ought to be separate and distinct. The consolidation of these three powers into one has been denominated “the definition of despotism.” And in proportion as these powers approximate to consolidation, the spirit of despotism steals over us. At the time of the adoption of this instrument, it was an objection raised against it by some of its most enlightened opposers, that its tendency was to such a consolidation, and on this account they strove to rouse the spirit of liberty. But their anticipations had chiefly reference to the forms of the Constitution, and particularly to that qualified control which the Executive has over the acts of the Legislature. They anticipated not at all, or at least very obscurely, that consolidation, which has grown and is strengthened under the influence of the office-distributing power, vested in the Executive. A consolidation perceptible to all, and which is the more fixed and inseparable, inasmuch as the cement is constituted by the strongest of all amalgams; that of the precious metals. This state of things is not the less to be deprecated on account of the fact, that the forms of the Constitution are preserved, while its spirit is perishing. The members of both branches may meet, deliberate, and act, but the spirit of independence is gone whenever the action of the Legislature is identified with the will of the Executive by the potent influence of the office-hoping and the office-holding charm.

With respect to the nature of this influence, I remark, that a misconception seems to be entertained concerning it. The bare suggestion of its existence is almost thought to be indecorous, because of the gross and palpable corruption in which it is supposed to consist. It is thought to imply a sort of pre-contract between the Executive and his selected favorites: so many votes for so many offices, or such an office for such a term of Swiss service. Sir, nothing of this kind is pretended. Such sale of conscience and duty in open market is not reconcilable with the present state of civilized society. And they are mightily offended if there be any suggestion, ever so remote, of pollution, or any hint that they have been about anything else, in their transactions with the Executive, than pursuing the pure love of glory and their country! But the corruption of which I speak, and which is the object of both the amendment and proposition, is of a nature neither very gross nor very barefaced. Yet, on

these accounts, it is not the less to be deprecated. On the contrary, from its very insidiousness, and its appearing so often almost in the garb of a virtue, ought it to be watched and restricted.

Such is its nature that it corrupts the very foundation of action. It springs up out of the human heart and the condition of things, so that it is almost impossible that it should not exist, or that it should be altogether resisted. It has its origin in that love of place, which is so inherent in the human heart, that it may be called almost an universal and instinctive passion. It cannot be otherwise. For so long as the love of honor and the love of profit are natural to man, so long the love of place, which includes either the one or the other, or both, must be a very general and prevalent impulse. It cannot, therefore, but be true, as a general principle, and it casts no reflection to admit, that all members of Congress may love offices, at least as well as their neighbors. Now, with the love of place, there is another principle concurrent in relation to members of Congress, which is the result of our political condition, and is this: that those most desirous of places in the Executive gift, will not expect to be gratified except by their support of the Executive. In referring to this principle, as the result of our political condition, I mean to cast no particular reflection on our present Chief Magistrate. It grows out of the nature of political combinations. For, with some highly honorable exceptions, it has been true in all past, and will be true in all future Administrations, that the general way for members of Congress to gain offices for themselves, or their relations, is to coincide in opinion, and vote with the Executive.

Out of the union of these two principles, the love of office, and the general impression that coincidence with the Executive is an essential condition for obtaining office, grows that corruption of the very fountain of action, the purification of which is the aim of both the amendment and my proposition under consideration. It exists without any precontract with the Executive. He knows our wants without any formal specification from us. And we know his terms without any previous statement from him. The parties proceed together, mutually gratifying and gratified, as occasions offer, and the harmonies of the happy part of the Legislature and the Executive are complete. And were it not that there is a third party concerned, called the people of the United States, nothing would seem more pleasant or unexceptionable than this partnership in official felicity. But so it is, in truth, that the interests and liberties of the people, which we are sent here to consult, will not only be sometimes neglected, but, at others, absolutely sacrificed, while the constituted guardians are gaping after offices for themselves, or hunting them up for their relations. The nature of the corruption is such as not only easily to be concealed from the world, but, also, in a great measure, from the individual himself. And, so long as that free access, which is at present permitted by the Constitution, is unrestrained, it will continue and may increase. On

every question which arises, and has relation to Executive measures, in addition to all the other considerations of honor, policy, justice, propriety, and the like, this also is prepared, to be thrown into the scale; that if a man means to gain office, he must coincide with the Executive. It is not possible for any man to decide what degree of influence this consideration has upon another, and it is nearly, if not quite, as difficult for him to decide what degree of influence it may have upon himself. For, let any man reflect upon the springs of any particular course of action, which various, concurrent, complex motives have induced him to adopt, and he will find it very difficult to apportion, to each of the concurring motives, the precise degree of influence which belongs to it. And he will also find that, if there be in the group one motive base, and consequently bashful of the light, it will shrink away into the deepest recesses of the heart, and there cover itself over with such an accumulation of plausible, specious motives, that it is beyond the power of poor human nature, in the ordinary strength of its moral sense, always to discover it. From the liability of having the source of our public actions corrupted by the infusion of such a taint, every honest mind will be solicitous to be delivered. For, whether the office, which allures our fancy, be for ourselves or for our relations, the result is the same. No man can stand up wholly independent to the hand by which he hopes to be fed, or which is in the act of feeding his children and relatives. Nor can any man, however honest or scrupulous, placed in such situation, be positively certain as to his own motive, or know whether, in such cases, his polarity with the Executive be the result of the intrinsic nature and reason of things, or whether it be the effect of the influence of those metallic strata, which unite that Executive with the centre of his best affections.

With respect to the degree in which this corruption has heretofore or may hereafter exist, it is impossible precisely to estimate. Because the offices in the gift of the Executive and the Departments are so numerous, are extended over so wide a surface, being for the whole United States; and the relations of members of Congress are so little known to each other and the world, that it is not to be expected that we, much less that the people, should be able to trace this influence, in all its ramifications. But, one thing is certain, that it exceeds popular estimation, as much as it evades legislative scrutiny. Why, sir, there is annually distributed from the great departments an amount not less than five-and-a-half millions of dollars, and from the Post Office Establishment not less than four-and-a-half millions, making the annual aggregate of ten millions of dollars. All this abundant reservoir is distributable, annually, to its objects, in streams of various magnitudes and in every direction, at the Executive will. Now, we stand at the very spot where this luscious fountain overflows in all its exuberance. Having the power, can we promise that we shall refrain from turning aside to ourselves and our relatives at least a full portion of these pecuniary bounties?

JANUARY, 1811.

*Amendment to the Constitution.*

H. OF R.

Is it in human nature, generally, to practice so much stoical self-denial, as a contrary conduct would imply? I have said that it was impossible to prove the full extent of the accommodation, which we and our relatives may obtain, in one shape and another, out of the Treasury, so long as such a latitude is given to our capacity to receive; yet, every now and then, some evidence occurs, tending to give a glimpse of the amount, in which the transfer of public money may be made to run in particular directions. At this moment there lies upon our tables an account of the Navy Agent at Baltimore, who, it appears, under the directions of the then Secretary of the Navy, did purchase, in about eighteen months, of a single mercantile house in that city, bills of exchange to the amount of two hundred and forty thousand dollars, the head of which mercantile house was and is a Senator of the United States, and the brother of the Secretary of the Navy. In referring to this subject, I beg to be understood as giving no opinion on that transaction, or as representing it as exceptionable in its nature. I adduce it with no other design than to show the extent to which relations may, if they please, accommodate one another, so long as no Constitutional restrictions exist, and the impossibility of estimating the amount and of pursuing the evil into all its ramifications.

Upon this subject of offices my sentiments may, perhaps, be too refined for the present condition of human nature. And I am aware, in what I am about to say, that I may run athwart political friends as well as political foes. Such considerations as these shall not, however, deter me from introducing just and high notions of their duties, to the consideration of the members of the Legislature. I hold, sir, the acceptance of an office of mere emolument, or which is principally emolument, by a member of Congress, from the Executive, as unworthy his station, and incompatible with that high sense of irreproachable character, which it is one of the choicest terrestrial boons of virtue to attain. For, while the attainment of office is to members of Congress the consequence solely of coincidence with the Executive, he who has the office carries on his forehead the mark of having fulfilled the condition. And, although his self-love may denominate his attainment of the office to be the reward of merit, the world, which usually judges acutely on these matters, will denominate it the reward of service. And, in such cases, ninety-nine times in the hundred, the world will be right. An exception to this rule may, perhaps, exist in the cases of offices of high responsibility, to which a member of Congress may be called, on account of his distinguished and peculiar qualifications; in which the voice of the Executive is, in truth, what it ought always to be, the voice of his country. Such cases are so rare, that when they exist they make a law for themselves. They are exceptions which prove rather than invalidate the rule. For us it is honor enough to be thus intrusted with the high concerns of this people, to be thus debating, thus maintaining their liber-

ties, or striving to improve their condition. Let us put it out of our power, and remove from us temptation to grub in the low pursuits of avarice and base ambition.

Such is the opinion which, in my judgment, ought to be entertained of the mere acceptance of office, by members of Congress. But, as to that other class of persons, who are open, notorious solicitors of office, they give occasion to reflections of a very different nature. This class of persons, in all times past, have appeared, and (for I say nothing of times present) in all future will appear on this and on the other floor of Congress. Creatures who, under the pretence of serving the people, are, in fact, serving themselves; creatures who, while their distant constituents, good, easy men, industrious, frugal, and unsuspecting, dream, in visions, that they are laboring for their country's welfare, are, in truth, spending their time mousing at the doors of the Palace, or the crannies of the Departments; and laying low snares to catch, for themselves and their relations, every stray office that flits by them. For such men, chosen in this high and responsible trust, to whom have been confided the precious destinies of the people, and who thus openly abandon their duties, and set their places and their consciences to sale, in defiance of the multiplied, strong, and tender ties, by which they are bound to their country, I have no language to express my contempt. I never have seen, and I never shall see, any of these notorious solicitors of office, for themselves, or their relations, standing on this or the other floor, bawling and bullying, or coming down with dead votes, in support of Executive measures, but I think I see a hackney, laboring for hire, in a most degrading service; a poor, earth-spirited animal, trudging in his traces, with much attrition of the sides and induration of the membranes, encouraged by this special certainty, that, at the end of his journey, he shall have measured out to him his proportion of provender.

But, I have heard that the bare suggestion of such corruption was a libel upon this House, and upon this people. I have heard that we were, in this country, so virtuous, that we were above the influence of these allurements; that beyond the Atlantic, in old Governments, such things might be suspected, but that here we were too pure for such guilt, too innocent for such suspicions.

Mr. Chairman, I shall not hesitate, in spite of such popular declamation, to believe and follow the evidence of my senses, and the concurrent testimonies of contemporaneous beholders. I shall not, in my estimation of character, degrade this people below, nor exalt them far above, the ordinary condition of cultivated humanity. And of this be assured, that every system of conduct, or course of policy, which has for its basis an excess of virtue in this country, beyond what human nature exhibits in its improved state elsewhere, will be found on trial fallacious. Is there on this earth any collection of men in which exists a more intrinsic, hearty, and desperate love of office or place—particularly fat places? Is there any in which place and official emolument more cer-

H. or R.

*Amendment to the Constitution.*

JANUARY, 1811.

tainly follow distinguished servility at elections, or base scurrility in the press? And as to eagerness for the reward, what is the fact? Let, now, one of your great office-holders, a collector of the customs, a marshal, a commissioner of loans, a postmaster in one of your cities, or any officer, agent, or factor, for your Territories or public lands, or person holding a place of minor distinction, but of considerable profit, be called on to pay the last debt of nature—the poor man shall hardly be dead, he shall not be cold long, before the corpse is in the coffin, the mail shall be crowded to repletion with letters and certificates, and recommendations and representations, and every species of sturdy, sycophantic solicitation, by which obtrusive mendicancy seeks charity or invites compassion. Why, sir, we hear the clamor of the craving animals at the Treasury trough, here in this Capitol. Such running, such jostling, such wriggling, such clambering over one another's backs, such squealing, because the tub is so narrow and the company is so crowded. No, sir, let us not talk of stoical apathy towards the things of the National Treasury, either in this people or their Representatives or Senators.

But it will be asked, for it has been asked, shall the Executive be suspected of corrupting the National Legislature? Is he not virtuous? Without making personal distinctions or references, for the sake of argument, it may be admitted, that all Executives for the time being are virtuous—reasonably virtuous, Mr. Chairman; flesh and blood notwithstanding. And without meaning, in this place, to cast any particular reflections upon this or upon any other Executives, this I will say, that if no additional guards are provided, and now after the spirit of party has brought into so full activity the spirit of patronage, there never will be a President of these United States elected by means now in use, who, if he deals honestly with himself, will not be able, on quitting, to address his Presidential chair as John Falstaff addressed Prince Hal: "Before I knew thee, I knew nothing, and now I am little better than one of the wicked." The possession of that station, under the reign of party, will make a man so acquainted with the corrupt principles of human conduct, he will behold our nature in so hungry, and shivering, and craving a state, and be compelled so constantly to observe the solid rewards daily demanded, by way of compensation for outrageous patriotism, that if he escape out of that atmosphere without partaking of its corruption, he must be below or above the ordinary condition of mortal nature. Is it possible, sir, that he should remain altogether uninfected? What is the fact? The Constitution prohibits the members of this and of the other branch of the Legislature from being Electors for President of the United States. Yet, what is done? The practice of late is so prevalent as to have grown almost into a sanctioned usage of party. Prior to the Presidential term of four years, members of Congress, having received the privileged ticket of admission, assemble themselves in a sort of electoral college on the floor of the Senate, or of

the House of Representatives. They select a candidate for the Presidency. To their voice, to their influence, he is indebted for his elevation. So long as this condition of things continues, what ordinary Executive will refuse to accommodate those who in so distinguished a manner have accommodated him? Is there a better reason in the world why a man should give you, Mr. Chairman, an office worth two or three thousand dollars a year, for which you are qualified, and which he could give as well as not, than this, that you had been greatly instrumental in giving him one worth five and twenty thousand, for which he was equally qualified? It is vain to conceal it. So long as the present condition of things continues, it may be reasonably expected that there shall take place, regularly between the President of the United States and a portion of both Houses of Congress, an interchange, strictly speaking, of good offices.

The principle for which I contend, and which is the basis, both of the original amendment, and of my proposition, is this: Put it out of the power of the Executive to seem to pay any of the members of Congress, by putting it out of their power to receive. "Avoid the appearance of evil." We have been taught to pray, "lead us not into temptation." They who rightly estimate their duties may find in public life, no less necessity than in private life, frequently to repeat this aspiration.

Mr. WRIGHT moved to amend Mr. QUINCY's proposed amendment by adding thereto a provision that each Senator or Representative, on taking his seat, should furnish a table of his genealogy.

Mr. QUINCY said he had no objection to such an amendment.

Mr. SEYBERT said the amendment proposed by Mr. WRIGHT would not effect his object, because a man might marry while a member and thus change his whole connexion.

Mr. WRIGHT reduced his motion to writing in the following words:

"Each member of the Senate and House of Representatives, when he takes his seat, shall file a list of his relatives precluded by said resolution."

Mr. RANDOLPH said such an amendment would have a strange reading in the Constitution of the United States.

Mr. QUINCY said he cared not for the mode so that he attained his end in this case. Whether the amendment he proposed succeeded now or not, it would before many years be adopted.

Mr. BACON said he assented to the general proposition of his colleague; but he saw difficulties in the detail, which, no doubt, the gentleman himself must see. He should be loth to vote on a proposition, even in Committee, on which he might, after amendment, change his vote. The subject was important; to give further time for considering it, he moved that the Committee should rise.

The motion was agreed to, and the Committee then rose.

A motion was made to print the several amendments, &c.

JANUARY, 1811.

*Jared Shattuck's Claim.*

H. OF R.

Mr. SMILIE said he was in favor of printing the original motion; but he suggested whether it would comport with the dignity of the House to print such amendments as the last which were offered. However their risible faculties might be amused by them, he hoped the House would not print and solemnly send to the world those things, which could scarcely be seriously meant.

Mr. TROUP was in favor of printing. He thought the proposition of Mr. QUINCY not only important, but essential to carry into effect the object of the original motion; and he had never heard a proposition more ably supported than that of the gentleman from Massachusetts. Almost every sentiment he had uttered had met his assent.

Mr. WRIGHT hoped they would be printed. As to the gentleman's feelings for the dignity of the House, he supposed every gentleman felt alike on that subject. He said he should feel gratified at any proposition he should make being brought before the public; and should not fear to meet their award. Mr. W. made some allusion to a part of the speech of Mr. QUINCY, in which he had appeared to Mr. W. to cast an ungenerous imputation on the late Secretary of the Navy, in respect to purchases in Baltimore, &c.

Mr. QUINCY disavowed any intention of making such imputation or inference.

The question was taken on printing Mr. QUINCY's proposition, by yeas and nays, and carried—yeas 75, nays 40, as follows:

YEAS—Willis Alston, jun., Ezekiel Bacon, Burwell Bassett, Abijah Bigelow, Daniel Blaisdell, Adam Boyd, James Breckenridge, William A. Burwell, John Campbell, John C. Chamberlain, Wm. Chamberlin, Langdon Cheves, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Meshack Franklin, Barent Gardener, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, James Holland, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, William Kennedy, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Alexander McKim, Wm. McKinley, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Thomas Newton, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, John Roane, Lemuel Sawyer, John A. Scudder, Adam Seybert, Daniel Sheffey, George Smith, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Jacob Swoope, Samuel Taggart, John Thompson, George M. Troup, Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, and James Wilson.

NAYS—Lemuel J. Alston, Wm. Anderson, David Bard, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, Joseph Desha, William Findley, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, Edwin Gray, Jonathan H. Hubbard, Jacob Hufty, Richard M. Johnson, Thomas Kenan, Aaron Lyle, John Montgomery, Thomas Moore, Gurdon S. Mumford,

Matthias Richards, Erastus Root, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, John Smith, Henry Southard, Uri Tracy, Charles Turner, jun., Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

The question was taken in the same manner on printing the proposed amendment of Mr. WRIGHT, and lost—yeas 31, nays 77, as follows:

YEAS—Willis Alston, jun., Ezekiel Bacon, Adam Boyd, William A. Burwell, Joseph Calhoun, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, James Holland, Philip B. Key, Nathaniel Macon, Archibald McBryde, Alexander McKim, William McKinley, Samuel L. Mitchell, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Timothy Pitkin, jun., Peter B. Porter, Josiah Quincy, John Rhea of Tennessee, Samuel Ringgold, John Roane, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Wright.

NAYS—Joseph Allen, Lemuel J. Alston, William Anderson, Burwell Bassett, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Robert Brown, William Butler, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, James Cochran, John Davenport, jun., Joseph Desha, William Ely, James Emott, William Findley, Jonathan Fisk, Meshack Franklin, Barent Gardener, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, Herman Knickerbacker, Robert Le Roy Livingston, Aaron Lyle, Vincent Matthews, Pleasant M. Miller, William Milnor, John Montgomery, Thomas Moore, Jonathan O. Moseley, Gurdon S. Mumford, Joseph Pearson, Benjamin Pickman, jun., Elisha R. Potter, John Randolph, John Rea of Pennsylvania, Matthias Richards, Erastus Root, Ebenezer Sage, Thomas Sammons, Adam Seybert, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Jacob Swoope, Samuel Taggart, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Nicholas Van Dyke, Laban Wheaton, Ezekiel Whitman, James Wilson, and Robert Witherspoon.

#### JARED SHATTUCK'S CLAIM.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Jared Shattuck—59 to 29.

The report is favorable to the claimant—a bill for the relief of this person having in two former sessions passed this House, but not been acceded to in the Senate.

Mr. MONTGOMERY, in a speech of some length, opposed the claim, and moved that the Committee rise, with a view to printing the papers relating to the claim, which he conceived was not fully understood.

This motion was debated, and lost—56 to 43.

The report was also debated, and agreed to—57 to 39.

The Committee then rose and reported their agreement to the report.

After repeatedly refusing to adjourn, the House confirmed the report of the Committee of the Whole—56 to 34, as follows:

**YEAS**—Joseph Allen, William Anderson, Burwell Bassett, Abijah Bigelow, William Butler, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., John Dawson, William Ely, James Emott, William Findley, Barent Gardenier, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, William McKinley, William Milnor, Benjamin Pickman, jun., Timothy Pitkin, jun., John Porter, Elisha R. Potter, Josiah Quincy, John Randolph, Erastus Root, Adam Seybert, Daniel Sheffey, Dennis Smelt, Richard Stanford, John Stanley, James Stephenson, Jacob Swoope, Samuel Taggart, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

**NAYS**—Willis Alston, jun., David Bard, Adam Boyd, Langdon Cheves, James Cochran, William Crawford, Joseph Desha, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, David S. Garland, James Holland, Aaron Lyle, Alexander McKim, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Rea of Pennsylvania, John Rhea of Tennessee, John Roane, Ebenezer Sage, Thomas Sammons, John A. Scudder, George Smith, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

The report was referred to the Committee of Claims, with instructions to report a bill accordingly.

#### THURSDAY, January 31.

Another member, to wit, from Massachusetts, ORCHARD COOK, appeared, and took his seat.

The bill from the Senate, entitled "An act for the relief of Thomas Campbell," was read twice, and committed to a Committee of the Whole on Friday next.

The SPEAKER laid before the House a report from the Postmaster General, on the petitions of the Synod of Pittsburg, and of sundry inhabitants of the Western country, in the States of Pennsylvania, Virginia, and Ohio, referred on the 4th and 18th instant; which was read, and referred to the Committee on Post Offices and Post Roads, to report specially by bill or otherwise.

Mr. VAN HORN, from the Committee of the District of Columbia, presented a bill to increase the salaries of the Judges of the Circuit Court for the District of Columbia; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. ROOT, from the Committee of Claims, presented a bill for the relief of Jared Shattuck; which was read twice, and committed to a Committee of the Whole on Wednesday next.

On motion of Mr. QUINCY, the Committee of

the Whole were discharged from the consideration of the bill from the Senate, entitled "An act authorizing the discharge of Nathaniel F. Fosdick from his imprisonment;" and said bill was referred to the select committee appointed yesterday, on the bill from the Senate, entitled "An act for the relief of William Mills."

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli;" to which they desire the concurrence of this House.

A message was received from the President of the United States, transmitting a letter from the Chargé d'Affaires of the United States at Paris, to the Secretary of State; and another from the same to the French Minister of Foreign Relations; also, two letters from the Agent of the American Consul at Bordeaux to the Secretary of State.—Referred to the Committee on Foreign Relations; and 3,000 copies thereof ordered to be printed for the use of the members.

The SPEAKER laid before the House a letter addressed to him by B. H. Latrobe, Surveyor of the Public Buildings, on the subject of the fire which took place on the roof of the Capitol this morning; which was read.

An engrossed bill concerning the Bank of Alexandria was read the third time, and passed—yeas 90, nays 23, as follows:

**YEAS**—Joseph Allen, Lemuel J. Alston, Willis Alston, jr., Burwell Bassett, William W. Bibb, Abijah Bigelow, James Breckenridge, William Butler, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, Matthew Clay, William Crawford, John Davenport, jr., John Dawson, William Ely, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barent Gardenier, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Walter Jones, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, John Love, Vincent Matthews, Arch'd McBryde, Alexander McKim, William McKinley, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newton, John Nicholson, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., John Porter, Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Daniel Sheffey, Dennis Smelt, George Smith, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, John Thompson, Uri Tracy, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—William Anderson, Ezekiel Bacon, David Bard, Adam Boyd, William A. Burwell, Joseph Calhoun, James Cochran, Joseph Desha, Barzillai Gannett, James Holland, Jacob Hufty, Aaron Lyle, Mat-



JANUARY, 1811.

American Navigation—Mississippi Territory.

H. OF R.

thias Richards, John Roane, Erastus Root, Thomas Sammons, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, Henry Southard, Richard Stanford, and Charles Turner, jr.

#### REMOVAL OF JUDGES, &c.

Mr. WRIGHT called for the consideration of the resolution submitted by him on Wednesday last, in the following words:

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following section be submitted to the Legislatures of the several States; which, when ratified by the Legislatures of three-fourths of the States, shall be valid and binding as a part of the Constitution of the United States:*

*"The Judges of the Supreme Court and inferior courts, may be removed from office by the joint address of the Senate and House of Representatives of the United States."*

Mr. W. wished it considered barely with a view to a reference to a Committee of the Whole, and to make it the order of the day for some distant day.

The House refused to consider the resolution; 53 to 38.

#### AMERICAN NAVIGATION.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred so much of the Message of the President of the United States as relates to the navigation of the United States, reported the following bill:

A Bill to secure to vessels of the United States an equal advantage in exporting articles, the growth or produce of the United States, to foreign ports, and for other purposes.

*Be it enacted, &c., That, from and after the — day of — next, 1811, the exportation of any article, the growth or produce of the United States, shall be, and is hereby prohibited in ships or vessels of any nation, whose laws impose on articles, the growth or produce of the United States, higher duties, when carried in vessels of the United States to the ports of such nation, than are imposed on the same articles when carried in vessels of such nation to its own ports.*

*Sec. 2. And be it further enacted, That any ship or vessel taking on board, or attempting to export any article, the growth or produce of the United States, contrary to the provisions of this act, such ship or vessel, together with her cargo, shall be forfeited, and every person concerned or aiding in the violation of this act shall, severally, be subjected to a penalty not exceeding — dollars, nor less than — dollars.*

*Sec. 3. And be it further enacted, That all fines, penalties, and forfeitures, recovered by virtue of this act, shall, after deducting all proper costs and charges, be disposed of as follows: one moiety shall be for the use of the United States, and be paid into the Treasury thereof, by the collector receiving the same; the other moiety shall be divided between, and paid in equal proportions to the collector and naval officer of the district, surveyor of the port, and inspectors, wherein the same shall have been incurred, or to such of the said officers as there may be in the district; and in districts where only one of the aforesaid officers shall have been established, the said money, shall be*

*given to such officer: Provided, nevertheless, That in all cases where such penalties, fines, and forfeitures, shall be recovered in pursuance of information given to such collector by any person other than the naval officer or surveyor of the district, the one-half of such moiety shall be given to such informer, and the remainder thereof shall be disposed of between the collector, naval officer, surveyor, or surveyors and inspectors, in manner aforesaid; Provided, also, That where any fines, forfeitures, and penalties incurred by virtue of this act, are recovered in consequence of any information given by any officer of a revenue cutter, they shall, after deducting all proper costs and charges, be disposed of as follows: one-fourth shall be for the use of the United States, and paid into the Treasury thereof in manner as before directed; one-fourth part for the officers of the customs, to be distributed as hereinbefore set forth; and the remainder thereof to the officers of such cutter, to be divided among them agreeably to their pay. And provided likewise, That whenever a seizure, condemnation, and sale of goods, wares, or merchandise, shall take place within the United States, and the value thereof shall be less than two hundred and fifty dollars, that part of the forfeiture which accrues to the United States, or so much thereof as may be necessary, shall be applied to the payment of the cost of prosecution: And it is further provided, That if any officer, or other person entitled to a part or share of any of the fines, penalties, or forfeitures, incurred in virtue of this act, shall be necessary as a witness on the trial for such fine, penalty, or forfeiture, such officer, or other person, may be a witness upon the said trial: but, in such a case, he shall not receive or be entitled to any part or share of the said fine, penalty, or forfeiture, and the part or share to which he otherwise would have been entitled shall revert to the United States.*

*SEC. 4. And be it further enacted, That when any nation shall repeal all statutes imposing prohibitions, or laying countervailing duties on importations into, or exportations from, the ports of such nation, of any article of merchandise whatsoever, in ships or vessels of the United States, on satisfactory proof being given to the President of the United States of the repeal of such laws, all acts of the United States which prohibit exportations from, or lay countervailing duties on, importations into the ports of the United States of any article of merchandise whatsoever in vessels of such nation, shall be, and the same are hereby repealed.*

The bill was twice read, and committed.

#### MISSISSIPPI TERRITORY.

The House resolved itself into a Committee of the Whole, on the report of the select committee in favor of admitting the Mississippi Territory into the Union on an equal footing with the original States.

A desultory debate of two or three hours took place on the resolution.

MESSRS. POINDEXTER, JOHNSON, GHOLSON, McKIM, SHEFFEY, HOLLAND, and WRIGHT, spoke in favor of the resolution, and MESSRS. BACON, PITKIN, QUINCY, BIGELOW, and BLAISDELL, against it. The arguments in favor of its passage were, among others, that the Territory could, when possessing a population of 60,000, claim admission as a right; that it now contained probably 45,000, and would, more than probably, before a

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*Pay of Officers of the Navy.*

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Representative could be elected under the new Constitution, contain full 60,000 souls; that, after admitting Orleans to the rank of a State, with a minor population, at the present session, it would be the height of injustice to refuse the same privilege to Mississippi, which had been so much longer a part of the united territory, and against the admission of which into the Union none of the Constitutional objections had weight which had been urged against the admission of Orleans. The opponents of the resolution argued that some respect was due to the feelings, however grounded, of the Eastern States, in relation to the creation of new States on the Western waters; that the admission of one State during a session was sufficient; if two were admitted into the Union in the course of three months, the people of the Eastern States would be justly alarmed at the diminution of their relative weight in the scale of the Union; that, since it was acknowledged the new State could not be represented before the thirteenth Congress, there could be no occasion for pressing this subject so urgently at this time. Why not, it was asked, wait for the actual census of the Territory? The very solicitude which was manifested to get this subject through Congress, it was said, showed there was something wrong, and was a strong argument against the adoption of the resolution.

The resolution was agreed to in Committee of the Whole—*yeas 62.*

The Committee rose, and reported their agreement to the resolution.

Mr. PITKIN moved to postpone the further consideration of the subject indefinitely.—Motion lost—*yeas 45, nays 69.*

Several unsuccessful motions were made to adjourn, and to lay the subject on the table, in order to read a Message which had been presented from the President of the United States.

The question was then taken to concur with the Committee of the Whole in their agreement to the said resolution, and resolved in the affirmative—*yeas 68, nays 47, as follows:*

*YEAS*—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newton, John Nicholson, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, Geo. Smith, John Smith, Samuel Smith, Henry Southard, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

*NAYS*—Joseph Allen, Ezekiel Bacon, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Jonathan Fisk, Barent Gardenier, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Vincent Matthews, William Milnor, Jonathan O. Moseley, Gordon S. Mumford, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Thomas Sammons, John A. Scudder, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Uri Tracy, Nicholas Van Dyke, Kiljian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

*Ordered,* That Mr. POINDEXTER, Mr. McKIM, Mr. HUFFY, Mr. ANDERSON, Mr. STURGES, Mr. VAN RENSSELAER, and Mr. CLORTON, do prepare and bring in a bill, pursuant to the said resolution.

FRIDAY, February 1.

A motion was made, by Mr. GARDENIER, that the House do now adjourn; and the question thereon being taken, it was determined in the negative—*yeas 9, nays 59.*

The bill sent from the Senate, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli," was read twice, and committed to the Committee of Claims.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

I transmit to the House of Representatives a report of the Secretary of War, complying with their resolution of the 21st instant.

JAMES MADISON.

JANUARY 31, 1811.

The Message having been read, was referred to the committee appointed on that part of the President's Message of the 5th of December, which relates to the land forces and fortifications of the United States.

Mr. ROOT, from the Committee of Claims, made a report on the petition of Hopley Yeaton, referred on the 11th December last; which was read, and the resolution therein contained concurred in by the House, as follows:

That the petitioner "prays that provision may be made for his support for the few remaining days of his life," in consideration of his services in the Revolution, and, since that time, in the command of a revenue cutter. His age and infirmities are urged in support of his claim. The committee can discover no right in Congress to grant as mere gratuities the money of the nation to any individual, however meritorious his conduct might have been. They therefore recommend that the petitioner have leave to withdraw his petition.

*Resolved,* That the petitioner have leave to withdraw his petition.

PAY OF OFFICERS OF THE NAVY.

On motion of Mr. BASSETT the House resolved itself into a Committee of the Whole, on the following bill:

FEBRUARY, 1811.

*Pay of Officers of the Navy.*

H. OF R.

A Bill in relation to the pensions and rations of the officers of the Navy.

*Be it enacted &c.*, That the officers of the Navy, when not in actual service, shall receive the rations allowed by law, except when furloughed for a definite period of time, with permission to leave the United States.

Sec. 2. *And be it further enacted*, That masters commandant, whilst commanding any of the vessels of the United States, shall be entitled to receive one ration in addition to those now allowed by law.

Sec. 3. *And be it further enacted*, That midshipmen shall be allowed two rations instead of one as heretofore.

Sec. 4. *And be it further enacted*, That if any officer of the Navy shall die by reason of a wound received in the line of his duty, leaving a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay, to which the deceased was entitled at the time of his death, or at the time of receiving the wound; which allowance shall continue for and during the term of five years. But in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the remainder of the term shall go to the child or children of the said deceased officer: *Provided*, That such half pay shall cease on the death of such child or children; and the money required for this purpose shall be paid out of the Navy pension fund, under the direction of the commissioners of that fund."

A desultory conversation took place in relation to the provisions of existing laws on this subject, &c.

Mr. BACON, who with others was of opinion, that the emoluments of officers of the Navy were already amply sufficient, as evinced by the numerous applications for any vacancy occurring in the naval service, moved to strike out the first section of the bill, with a view to make a similar motion successively in relation to every section of the bill.

This motion was opposed by Messrs. BASSETT, WRIGHT, and MITCHILL, on the grounds of the peculiarity of the seaman's situation, his habits unfitting him from obtaining a livelihood by any other avocation, &c.

The motion to strike out the first section was carried, 58 to 35.

Mr. BACON then moved to strike out the 2d and 3d section.—Carried.

Mr. SMILIE moved to strike out the fourth section of the bill, not because he objected to it in principle, but because it was confined to officers, and did not propose to extend the benefit to seamen.

Mr. BASSETT opposed the motion, and supported the section on the ground that it proposed to extend to the officers of the Navy the same privileges that were extended to those of the Army. If the section was not sufficiently comprehensive, it was competent to any gentleman to propose amendments without destroying the section altogether.

Mr. PICKMAN and other gentlemen opposed the motion.

The motion to strike out the 4th section was negatived.

Mr. MITCHILL and Mr. RHEA successively made motions to make the pensions &c., payable out of the Treasury, under the discretion of the Secretary of the Navy instead of out of the Navy pension fund. These motions having failed of success—

Mr. MITCHILL then renewed the motion to strike out the fourth section of the bill; which was carried, 38 to 34.

The Committee then rose and reported that they had stricken out all the sections of the bill.

The House agreed to consider the report of the Committee of the Whole.

The question being about to be taken on concurring with the Committee of the Whole in striking out the three first sections, so as to take the question separately on striking out the 4th section—

Mr. W. ALSTON moved to postpone the further consideration of the subject indefinitely.

The question was decided by yeas and nays; when there were for indefinite postponement 60, against it 53, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, Abijah Bigelow, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, Matthew Clay, James Cochran, Richard Cutts, John Davenport, jun., Joseph Desha, William Ely, William Findley, Meshack Franklin, Barzillai Gannett, David S. Garland, Peterson Goodwyn, Edwin Gray, Daniel Heister, James Holland, Jacob Hufty, Richard M. Johnson, William Kennedy, Aaron Lyle, Nathaniel Macon, Samuel McKee, Thomas Moore, Jeremiah Morrow, Thomas Newbold, Timothy Pitkin, jun., John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, Jacob Swoope, Samuel Taggart, John Thompson, George M. Troup, Charles Turner, jun., Robert Weakley, Laban Wheaton, and Robert Whitehill.

NAYS—Joseph Allen, William Anderson, Burwell Bassett, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Langdon Cheves, Martin Chittenden, William Crawford, James Emott, Barent Gardener, Charles Goldsborough, William Hale, Nathaniel A. Haven, William Helms, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Walter Jones, Thomas Kenan, Herman Knickerbacker, Robert Le Roy Livingston, John Love, Vincent Matthews, Archibald McBryde, Alexander McKim, William McKinley, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Jonathan O. Moseley, Gurdon S. Mumford, Thomas Newton, Benjamin Pickman, junior, Peter B. Porter, Samuel Ringgold, Daniel Sheffey, Dennis Smelt, John Smith, John Stanley, James Stephenson, Lewis B. Sturges, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, Robert Witherpoon, and Robert Wright.

So the bill was indefinitely postponed.

H. OF R.

Commercial Intercourse.

FEBRUARY, 1811.

SATURDAY, February 2.

A motion was made by Mr. GARDENIER, that the House do now adjourn; and the question being taken thereon, it was determined in the negative—yeas 20, nays 63.

Mr. RANDOLPH, from the committee to whom were referred the several bills from the Senate to incorporate the Bank of Potomac; to incorporate the Farmers' Bank of Alexandria; to incorporate the Bank of Washington; and to incorporate the Union Bank of Georgetown; reported, in part, the agreement of the committee to the first-mentioned bill, with amendments.

## COMMERCIAL INTERCOURSE.

Mr. EPPES moved to discharge the Committee of the Whole from the further consideration of the bill supplementary to the act concerning commerce, &c., for the purpose of recommitting the bill to the committee who reported it.

Mr. GOLDSBOROUGH wished the gentleman to state the reasons which urged him to move a recommitment of the bill. It was usual, in such cases to state the grounds of the motion.

Mr. EPPES said he had no objection to state the reasons which operated with him. The bill contained various provisions respecting enforcing the law of May last. The non-intercourse went into operation to-day. It had been considered by the Committee of Foreign Relations, that, in the present aspect of our affairs, it would be better to provide for the relief of our own citizens, and suspend the passage of the law for enforcing the non-intercourse, until the doubts hanging over our foreign relations were dissipated. Under these impressions, the Committee had thought it proper that a distinct bill should be reported, to admit to entry all vessels sailing from Great Britain after the second of February.

Mr. RANDOLPH wished to know whether it was in order to make a motion amendatory of the motion for recommitment?

The SPEAKER replied in the affirmative.

Mr. RANDOLPH said he had attended the House with great anxiety yesterday, with a view to make the motion which he was now about to submit as an amendment to that under consideration, but could not procure the floor. The amendment which he wished to propose, Mr. R. said, was one which he should have wished to have offered in the shape of a separate resolution, and which he came down to the House to-day prepared to offer. He should make but few prefatory remarks on this subject. Time was short; was precious; and, above all, he should wish the House to act with promptitude, in whatsoever manner it might decide on this question. It would be remembered—and, really, nothing was farther from his wish, nothing was farther from his policy, than a desire to create an unpleasant sensation or reflection in the mind of any member of this House—it would be recollected, he said, that we had made a sort of retreat from the embargo to the non-intercourse law. Among the objections which then suggested themselves to the

friends as well as the opponents of that law, the ingenious one which has been taken in France never once occurred; it was not contended, he believed, that it would give to that Government a plea for heavy retaliation on us. Such, however, was the fact. The sequestrations and confiscations of American property in France, have been made avowedly in retaliation of the non-intercourse law number one. From that law, however, we escaped to another position, changed our front, and took post on the act (he forgot the title of it) concerning commercial intercourse, &c.—the act of last session. And now, Mr. R. said, it seemed they were to have a modification of that. In some parts it was to be pared away, weakened, like some parts of this building; in others buttressed and supported, no matter at what expense of public prosperity or happiness; one-half the building in a state of magnificent repair, the other leaky, and unfit for the residence of human beings.

Nothing was further from his wish, Mr. R. said, than to enter into a detailed exposition of our foreign relations, but he asked all sides of the House to lay their hands on their hearts and ask themselves what benefits had accrued from the non-intercourse law No 1, and that of last session, No. 2? Why did they continue on the statute book those acts? Why were these measures, totally imbecile as relates to foreign Powers, altogether inadequate as to coercion on them, suffered to remain in existence? Let me draw a short picture, said Mr. R. Let us suppose a Liverpool ship, containing the cotton and tobacco of the Southern States, arriving in England, was confiscated, and the proceeds paid into the British Exchequer on the plea of retaliation to that non-intercourse law, which unquestionably did affect Great Britain as much as it did France. Let us suppose, in consequence of the passage of the law relating to commercial intercourse, the Marquis Wellesley writes to Mr. Pinkney a very polite note, informing him that inasmuch as we are disposed to withdraw our measure, so hostile, the edicts under which our property had been sequestered should be suspended conditionally; that Mr. Pinkney, in rejoinder, writes a very civil note to know what is to be done with the money, the proceeds of sequestered American cargoes locked up in the Treasury vaults, and, that the Marquis should reply, Why, as to that affair, the principles of reprisal will govern it. I will say nothing of the seamen lying in the dungeons of France; not that I feel less for the rights of man than for the rights of property, but because that subject does not appear to have been touched in the notes from our Minister to the Minister of France; or, if squinted at, not deemed to be noticed by that Minister in reply. The President of the United States, said Mr. R., (continuing his hypothesis), on the day on which the promissory note becomes payable, issues a proclamation in which he suspends this act respecting commercial intercourse. I will suppose that, on the first of January, a vessel leaves Liverpool conveying a note from Mr. Pinkney, from our Consul, Mr. Maury, from any agent,

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*Commercial Intercourse.*

H. OF R.

however low in the diplomatic scale, stating that all the vessels on which these decrees could operate had been put in a state of sequestration, (say on the 8th of December,) would it be possible for us, however well disposed, to gloss over this vile conduct; to believe that official advice had not been received at London in time for an order to arrive thence before the first of January? But, in the case in question, our agent did not reside at a distant port, but at Paris; so that there was an interval between the 8th of December and 1st of January, in which to send an order for the release of those vessels to Bordeaux. I will suppose, in addition to all this, that an American frigate, attempting to enter the ports of Great Britain, when in this act of amity, is treated with indignity, and compelled to perform quarantine. I ask you, sir, if the proceeds of the cotton and tobacco of the Southern planters, instead of being deposited in their pockets, was locked up in the British Treasury, and they were told that it was a retaliatory measure, and must be settled by the law of reprisal—I ask whether we should not have war against that country in four and twenty hours? Unquestionably we would.

But, Mr. R. said, his object was not to make war. His experience of the temper of the House, however strongly his inclination might be that way, had certainly operated a preventive cure upon any disposition he might find within himself to turn knight errant. All he would wish to press upon the House was, the propriety of relieving the President of the United States from the dilemma in which he must now stand, in consequence of his proclamation, by an immediate repeal of that law of commercial intercourse to which this new bill from the Committee of Foreign Relations is supplementary. Mr. R., therefore, moved, by way of amendment, that the Committee of Foreign Relations be instructed to bring in a bill to repeal the bill respecting commercial intercourse between the United States and Great Britain and France, and their dependencies. I make you this motion, said Mr. R., and, for God's sake, let us once more have clear states.

Mr. EPPES said it was not his intention on the present occasion to take a tedious view of our Foreign Relations. It was sufficient for him to observe that the Executive had complied with the law of last session; that the Berlin and Milan Decrees having been withdrawn, and these being the only decrees "violating the neutral commerce of the United States," in consequence of that withdrawal, the President had issued the proclamation required by law. With regard to the injuries we had received from each belligerent, Mr. E. said, he would not pass through the chapter of wrongs. On an occasion similar to that given by France, a similar arrangement was entered into with Great Britain, carried into effect, and communication restored with her. What had been then our situation? Had our wrongs been redressed? Had they not spoliated our commerce, impressed our seamen, and heaped upon the nation every wrong which insolence and power combined could produce? Yet, in that

arrangement, these injuries were left for future adjustment, and the agreement under the law in that case, as in the present, was considered a mere arrangement for the purposes of commerce. No man felt more sensibly than Mr. E. as to the sequestrations of France; no man would go farther to obtain justice than himself. But, in the present posture of the affairs of this country, he could not consent to do an act which would go to violate the faith of this nation, pledged under the sanction of Legislative authority. The proposition was distinctly made in the law, was accepted by one belligerent, the evidence furnished, as required by our own law, of the revocation of her decrees; and now, when they did not know of a single case on which the decrees had since operated, he was not disposed to annul the whole proceeding. Gentlemen would recollect that the arrangement had been made in August, and from that time until the arrival of the *Essex*, no circumstance had occurred to give to France a certainty that the United States had complied with the engagements into which they had entered. The case of the vessel seized at Bordeaux was not that of a vessel from the United States, but from Gibraltar. It was not known of what her cargo was composed, or what the circumstances which induced her seizure. These circumstances were all unknown; and, although as an individual, said Mr. E., I am not disposed at the present moment, until I know certainly that they are withdrawn, to take measures to enforce the non-intercourse act, before I vote for its repeal, I must possess unequivocal evidence that France has violated the faith pledged to this nation.

The arrangement with France stands precisely on the same footing as with Great Britain. In both cases the Executive accepted the faith of the nation, pledged through their Minister; and if it should turn out that we have been deceived by both, it will prove that there has been always on the part of the Executive of the United States a sincere disposition to have peace with these nations. On the subject of the spoliation on commerce by France, and her seizures and confiscations, it would be found that in every letter addressed by our Minister to that Government the restoration of that property was considered as making an essential part of the arrangement. The circumstance of the Minister being obliged to return from France, at a period perhaps rather unfavorable, might have prevented that part of the arrangement from receiving that decided character which it ought to possess. Mr. E. said his colleague was mistaken as to the alleged cause of the seizures in France; it was not a retaliation for the non-intercourse law, but for the supposed seizure of property in American ports. He believed, that it was a fact that no such seizure of property had taken place; and if the law of reprisal was to govern in this case, if anything like justice could be relied on from France, the property would be promptly restored. Mr. E. concluded by suggesting to his colleague the propriety of offering his proposition separately from the present motion. There were considerations which ought

to induce the House immediately to pass regulations for the relief of our own citizens.

Mr. RANDOLPH said it would give him great pleasure to comply with the request of his colleague, were it not for the circumstance that this non-importation went into operation to-day. The truth was, if there were to be in point of fact any operation at all; if the medicine were to work; if it were to have any practical effect, he would let it pass. But although in point of fact it would do the belligerents no harm, and unquestionably do us no good; it would be made an engine for sinking the value of the property of his constituents. Mr. R. said he was opposed to this sort of legislative quackery; it went to the impairing our own Constitution—to injuring our own health, without affecting our enemies. He thought the gentleman had stated that there had been no case in which the Berlin and Milan decrees had been applied to our property since the 1st of November. In the name of common sense, said Mr. R., of what consequence is it to us, if we are plundered and robbed, whether it be under one decree or another! Will the gentleman say that there is no case in which our property has been robbed, and the proceeds put in the French treasury? It is of no matter or consequence to us, whether we are murdered and robbed on the highway, or the rights of hospitality be disregarded and we murdered in our beds under the protection of our host. As relates to us, the question is altogether immaterial. There is a deeper die of depravity in one case than in the other, as relates to the offender—not a shade of difference as relates to the party offended. It seems, sir, that we attend so much of late to mode and so little to substance, that if we are not robbed and plundered after this particular manner, we may be robbed and plundered to our heart's content after another fashion. The question with us is, whether we are robbed and plundered. It may be matter at Paris, where there is so much in the *mode*, but to us old-fashioned people it is no matter, so as we lose our money, how it is taken.

Mr. R. said he should have been extremely glad to have submitted this proposition in the shape of a resolution, and discussed it in the Committee of the Whole to whom the bill was referred. But could it not be discussed now? Was it not as much in the power of any member under the present motion to discuss the question whether the non-intercourse law shall be repealed? His colleague, Mr. R. said, had justified the seizure of our property in French ports as a retaliation for alleged seizures of French property in our ports, which he allowed not to have taken place. Was it of any consequence to the people of the United States, if they were plundered under false and stale pretenses, what those pretenses were? He apprehended not.

One word, said Mr. R., on the subject of the faith said to have been pledged by the act of May, last. It cannot have been so pledged. Pledged to whom? To Great Britain? Unquestionably not. To France? Unquestionably not. What is our law? A rule of action. To whom? For

ourselves. We have been aggrieved by the two great belligerents of Europe; we pass a law for the regulation of our own conduct, the operation of which is to depend on certain contingencies. Is that a pledge of faith to either of those belligerents? Unquestionably not. But this it does not behoove me to prove; it behooves my colleague to show how it is a pledge of our faith.

With regard to the anxiety of the President to preserve peace, Mr. R. presumed there could be no doubt of the fact; he never doubted it. He submitted to the House whether late occurrences did not afford an opportunity of getting rid of this wretched system of lame expedients, in which they had embarked since they abandoned the embargo. It might be said that in a short time news might be received of the repeal of the Orders in Council, which would, in the opinion of some, render this motion unnecessary. The law, Mr. R. said, was a rule of conduct for him, and no foreign nation had a right to know of its existence; and if news of rescinding the Orders in Council were to arrive in town this day, he should still be clearly of opinion that they ought to repeal this law. He looked upon the law as being mischievous; as having no operation on the Orders in Council or Bonaparte's decrees. If it had none, why retain it? Why keep it here as a germ of difficulty? Let us have clear stays; I repeat, said Mr. R. Let us have *tabular rasa*; and, if we must fight, let us fight without parchment chains about our hands.

Mr. MITCHELL said he was glad the business had been brought before the House; he hoped it was a harbinger of our emancipation from our own laws on the subject of commerce. The policy pursued by the Government for eight or ten years past, had been to deal in commercial restrictions; and if they had been found inadequate, it was high time to think about laying them aside. For the purpose of being understood, Mr. M. begged the indulgence of the House whilst he gave a little summary of the course which had been pursued. It commenced in 1804, when the English determined to interfere with neutral vessels carrying the produce of the colonies of one of the belligerents. At that time the merchants of the seaports almost stunned our ears with their complaints of oppressive violations of our commerce. Congress were told at that time that trade was annihilated; that its profits were entirely lost; that it was impossible to pursue it any longer with a prospect of advantage; and Congress were solicited to interfere. I well remember (said Mr. M.) the course of events; because, from my situation at that time, many memorials passed through my hands. In consequence of this clamor from the seaports, and the representations from the merchants that their case was forlorn; the Government, willing to do something to relieve them in their distress, and not willing to go to the extent of authorizing them to arm, went into a system of commercial restrictions and expedients of this sort—and out of these circumstances grew the first bill for a non-importation. What was it? It was a bill to exclude the im-

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portation of unnecessary articles. I voted for the bill, because I had a disposition to take those things which, if not as good as I could wish, were the best we could get, and we could agree upon that bill when we could agree upon nothing else. What was the consequence of this measure? The law produced no effect upon the country to whom it had particular relation, although seconded at the same time by a Minister Extraordinary to negotiate under Executive directions. The next step in the history of coercing foreign nations by commercial restrictions was the embargo, in which our people were told that the state of things was so desperate on the ocean, that the most proper course for our circumstances was to stay at home. This expedient was tried; and it was an effort of independence; it was an act which would have rendered us not only nominally independent, but independent in fact. It was found impossible to carry it into effect; and under that conviction it was repealed. From that repeal sprung the non-intercourse, which after a year was laid aside. The operation of that system was to allow a trade, not permitted direct, to be carried on through intermediate ports. We have since had the law of May last, proposing an alternative to the belligerents; which has brought us into the situation in which we find ourselves—one nation professing to repeal these decrees and the other disregarding the offer.

What is our situation with regard to the nation repealing its decrees? The detention of our property at St. Sebastian's is extremely oppressive to us. We have already passed an act this session appropriating nearly a hundred thousand dollars in aid of the fund for the relief of seamen, &c., in order to bringing home our seamen thrown adrift in that and other ports. We are told, by the documents on our table, that seizures still continue; and it seems to me, from all these circumstances, that the times are not changed for the better. It was wholly immaterial, Mr. M. said, whether our proclamation reached France previous to the late seizures or not; it became them to carry into effect their own declaration. Whether they had received our engagement or not, their decrees ought to have been annulled on the first of November. In taking a review of the circumstances, and finding these commercial restrictions not to have answered the purpose for which they were designed, he was inclined to vote for the resolution on the table, going to produce a change which he thought desirable.

It seemed to him there were but three ways in which it was worth while to treat this subject.

The first course presenting itself was a determination on the part of this people to stay at home. In that case they would be perfectly free from the assaults of the belligerents, unless indeed they should come to invade our territory. This course had been attempted by the embargo; the experiment had failed; it had been given up in despair. The second course, was to go on in our non-intercourse, subject to the restrictions of foreign nations, subject to the stipulations of the belligerent Powers, and to a submission to those

regulations which stronger or more warlike Powers might think proper to interpose. This course is the one that he supposed we must come to, of allowing every one who choose to make an adventure of his personal property to do so, at his own option and personal risk. A third mode remained, and that would perhaps form an interesting subject for discussion, viz: whether the persons and property of individuals should not be saved from rapine and plunder, by some protecting arms. This, it may be said, will produce war. It seems to me, on reviewing the conduct of the belligerents, they are both at war with us. If the capture of property, its seizure and sequestration; if the imprisonment of persons; and in many cases the death of these persons, do not provoke war, I know not what is cause of war. If we consider what sort of protection should be given to property, it may be in two modes; one, in which the nation, in a national form, shall think proper to extend protection to the persons and property of its citizens; or, that protection which the arms of the individuals concerned may afford to themselves under the license of Government.

In order that Congress might arrive at something less entangling than the system in which they were involved, Mr. M. said he was willing to clear away the impediments in the road to commerce, and to allow his countrymen to advance in quest of profit—to have a clear sea; and when they should be once more in the enjoyment of a free trade, it would enable Congress to consider at leisure what measures should be taken for future security and protection. For, on looking into the state of things in this country, it would be found that they were involved in paradoxes. One was, that, having a power to lay internal taxes, Congress did not choose to exercise it. A second was, that Government refusing to protect commerce by an armed force, there should at the same time be immense quantities of property sent abroad under the guardianship of its own citizens, when it was well known that that property might and would be seized by the stronger Powers under any pretence they should choose to set up. Another thing incidental to the society to which we belong, said Mr. M., is, that, with a commerce under such circumstances, we must derive from that very commerce the revenue which supports our Government. In such a state of things I am perfectly desirous that there shall be a chance once more given to the navigating and commercial part of the citizens of the United States to go on without impediments on the part of their own Government and make their voyages as advantageously as they can; that they may go abroad like industrious bees, and return laden with honey to the hive; for, looking at our financial system, bottomed on commerce, I think we ought not to superadd to the difficulties under which commerce labors, restrictions imposed by our own Government.

Mr. WRIGHT said he was not a little surprised at a gentleman's rising and proposing a direct

violation of the plighted faith of the Government, pledged in the law of May last in the face of the world. He hoped that such a breach of good faith would receive no countenance in this House. What! said he, after the Legislature of the United States have legislated on the subject, making a proposition, and one Power has so far acceded to it as to revoke her decrees of Berlin and Milan in so many words, are we to shrink from a performance of the contract? Mr. W. felt not a little surprised that, after this, any Representative of the American nation would feel a disposition, upon the receipt of a letter from a *Chargé des Affairs*, (which he did not know that he was, by the appointment of the President and confirmed by the Senate as required by law,) that any member would be disposed to slight the nation's promise. What does this gentleman say? That our frigate *Essex* arrived on the 5th, and that a messenger coming ashore was prevented by the ship's being held liable to quarantine; and that the ship *New Orleans Packet* had been seized at Bordeaux, under the Berlin and Milan decrees. Sir, said Mr. W., what information had the French Government then received of the proclamation of the President of the United States? None; it was not till the 12th that the proclamation reached Paris, where it was received by the people with great joy. We have no expression of the opinion of the Government subsequent to that time. In relation to the seizure of this vessel, whenever an agent does an act violating the law of nations, the Government must be called upon and refuse to disavow the act before it can be ascribed to the Government. What, then, has been done in this case? There is a letter written, no answer to which had been received when it was despatched. We find, too, that the vessel seized had been to a British port, and was loaded with articles not the growth of this country. Here, sir, we find our *Chargé des Affaires* telling us very hastily that he has written such a letter to the Duc de Cadore, and had not received an answer. And before we are informed what were the precise facts in this case, we are to act on a one sided information, and in fact without any information at all, and to impute to the French Government an intention, without knowing whether it was their intention or not, to disregard their promise. On this single case, on the true color of which there is no certainty, we are called upon to lay the foundation of a revocation of that law. In what a situation shall we place the country, should we act on the information, and to-morrow learn that the officer who seized the vessel was punished, and the vessel given up, and that the Government of France was well disposed! The nation would be much dissatisfied indeed, if, after having held out conditions to both belligerents, which are accepted by one, without the least information, or reason to expect anything from the other Power, we were to retrace our steps. Are we, upon information that Mr. Russell had written a letter to the Duke of Cadore, to which no answer was or could have been received, faithlessly to repeal a

law containing so solemn a pledge? Could any man feel a devotion to the best interests of his country, who would place it in that predicament?

Mr. W. said he was friendly to peace; but if we must have a collision let it be with that nation which continues to injure our rights. If they should determine to revoke their act, before knowing what France had done consequent on the proclamation, it would be extraordinary indeed. Here was a very hasty letter of a young man just inducted into office, who in his desire to show his zeal writes a letter to give information, which when received amounts to nothing. Besides, Mr. W. questioned the correctness of the fact stated by him of the *Essex* being ordered to quarantine; because the messenger who went in her arrived at Paris on the twelfth, and could not have been detained on board the vessel at quarantine. As to recommitting the bill and waiting for further information, there could be no objection to it; but as to repealing the law, it was a proposition which ought not, under present circumstances, to be entertained by the House. Mr. W. said he looked upon our engagement with France in the light of a solemn treaty, and as such binding on us. If he could be satisfied, however, that these things had been done under the authority of France, he should be as ready as any one to denounce the act, and go as far as any one to procure redress; for he had been long tired of the aggressions on our neutral rights. He would go as far as the gentleman from Virginia. (Mr. RANDOLPH,) whose zeal he admired, but conceived he had really overlooked the true merits of this case. Should France slight her faith, he would go as far as any one to avenge it, and to bring those nations who have violated our rights to condign punishment.

Mr. BURWELL said that even if he was disposed to repeal the non-intercourse law, he should still be in favor of the motion of his colleague, because, if some such provision were not made, at a period earlier than a law to repeal the act concerning commercial intercourse could pass both Houses, the merchants would be subjected to great inconvenience. It had always been his opinion, Mr. B. said, that it would be improper to adopt the amendments proposed to the intercourse bill; it had been entirely his opinion that the property about to be imported into this country from Great Britain would belong to American citizens and not to British subjects. The circumstance was evident from the rate of exchange between the two countries. If the fact was undeniable that all property imported for some time to come would belong to American citizens, and it was the object of the motion to recommit to relieve our own citizens, Mr. B. asked, where was the necessity of connecting that subject with another, which would consume a great deal of time and subject our citizens to great inconvenience? Such would be the case, because, by the instructions of the Secretary of the Treasury, the collectors are directed to consider the prohibition of importation as commencing this day. If Congress did not



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speedily interfere, the merchants would be exposed to great inconvenience and the officers to vexatious suits, &c.

As to the non-intercourse system, Mr. B. said he was perfectly aware that it was one which could not be executed to the extent and in the spirit contemplated by Government; that it is a system which tends to diminish the revenue, and demoralize the merchants, he might perhaps say the people, of the country. But he conceived that at the present stage of the business, this question did not properly come into consideration. For, although he might not be able to satisfy any gentleman that the relations between the United States and Great Britain were of the nature of a contract; yet in his own mind, it was very evident that we had entered into a stipulation which we are bound to respect, provided France fulfilled it with good faith—he said with good faith; for he was determined never to vote for its continuance unless it was executed with good faith. He said he had never palliated her conduct; he had no idea that we could ever consent to abandon the property she had seized without a shadow of reason—property on the restoration of which it appeared to him Government ought to insist with a pertinacity which ought never to be relaxed. Our affairs with France had been in such a state of incertitude from the commencement of the session that he had not been able to make up an opinion on them. When he looked to the correspondence, Mr. B. said; he was struck with this view; that instead of procuring from the French Government a clear and definite expression of their intentions in relation to the sequestered property, we are left almost entirely in the dark on the subject. He was not disposed to carry the non-intercourse into effect, unless the stipulations on the part of France were fairly carried into effect. This must be the opinion of every man. No man would continue a measure operating against one only of the belligerents, when he was convinced that nothing but puny faith was to be expected from the other.

Mr. B. begged gentlemen to permit the original question to be taken on recommitment, and let the present motion lie over for a day or two. If the non-intercourse could not now be repealed without a disregard of our faith, why take a step which would jeopardize all our property in the ports of the Continent? This consideration deserved reflection. He feared, do as they would, that this property was not secure. He confessed, if he were engaged in commerce, under present circumstances, he should lie on his oars. At the same time no measure ought to be adopted which was likely to produce a loss of property abroad. In the present state of the country it must be an object with every gentleman in the House, that our farmers, if it were practicable, should enjoy the benefits of the continental market; for it was well known that tobacco and almost every article we exported found an extensive sale on the Continent of Europe. The export to England of cotton and tobacco, except of the finest quality of the latter, had been attended with serious loss to

the merchants engaged in it; and many of the failures taking place in the United States arose from the return of bills drawn on the faith of these shipments. Every gentleman must be convinced that our trade, if confined to Great Britain, would afford very little encouragement to agriculturists. It must therefore be an object with every man, by all honorable means, to secure a trade with the Continent; though, much as the individual interest of Mr. B. and the country at large would be promoted by it, property on the Continent was, and would be, in such a state of insecurity that he did not anticipate any very important advantage from keeping that trade open.

As to the protection of our merchants, Mr. B. said he did believe that they must ultimately be permitted to run their own risk, and, if they encounter ruin abroad, to take the consequences. If such was the state of Europe, that we could make no impression there, we must submit to this state of things. Mr. B. alluded to a remark made by Mr. Macon at the last session, that the belligerents appeared to be fighting every one but themselves. Did we not now get French silks, wines, and brandies, through England? And was not our tobacco sent to the Continent in the same way? Whilst we had been interdicted by each from trading with the other, they had been carrying on an extensive commerce with each other. Mr. B. said he looked forward to the total extinction of commerce. He said it could not exist under such a system of rapine as had been pursued. We must wait for some change in Europe in which we cannot be instrumental, to enable us to act; until which it would not be proper to take any step in relation to either of the belligerents.

Mr. B. took another view of the subject. He said he had not the smallest doubt, if the French decrees were found to be practically repealed, that the British would repeal the Orders in Council. He had no doubt in his own opinion that the British Government were perfectly sick of the system it had been pursuing. That France, not dependent on commerce, should make war on it, was not to be wondered at; but that Great Britain should by a kind of blind fatuous policy unite with France in the extinction of that system which gives her strength and power, was surprising.

Mr. B. said he was not in favor of non-intercourse with Great Britain, unless the promise of France was fully and fairly executed. He would say that no member of the House reprobated more cordially than himself the manner in which our vessels had been seized in France, &c.; at the same time he had the same opinion of the injuries we had received from the other belligerent. Mr. B. concluded by remarking that gentlemen who were favorable to a repeal of the non-intercourse ought nevertheless to vote against the present motion, and for that first made, with a view to the relief of our merchants.

Mr. GARDENIER expressed his hope that in the present embarrassed condition of our affairs no gentleman was disposed to argue on this question with anything like party feeling. If ever there

was a case in which it was necessary to lay aside party feelings, it was at this time. The few remarks which he should submit to the consideration of the House would have only for their object the public good and general prosperity of the people of the United States. I shall not, said Mr. G., occupy the attention of the House by bringing to their recollection the different expedients to which the country may have had recourse for the purpose of curing the evils which have afflicted it. It is enough to say that however honestly intended, and however much good has been honestly hoped from them, the result expected has not been realized. It is not too much to say that in no one instance has the system which has been in operation for four years past been productive of beneficial consequences to ourselves. It were easy to detail how pernicious has been the influence of that system on ourselves; it has produced no good, but one continued series of evil. At this time, with these effects before us, on one side of the House feeling no disposition to embarrass the operations of the Government, and on the other side no disposition to persevere in this fatal system, we should look at our actual condition to provide a remedy for it.

After the first proposed non-intercourse law had failed at the last session; after the failure of the project of the Chairman of the Committee of Foreign Relations, (Mr. Macon,) who reported the bill, which every and nobody was for, we adopted the law of the 1st of May. The President has acted on it. Mr. G. here quoted the law, to show the nature of its provisions. During the recess of Congress, the French Government notified this Government that the unlawful edicts of France would cease on the first of November then next ensuing; and on the second of November the President issued his proclamation, not in the words of the act, as I understand it, that France had so revoked or modified her edicts as that they had ceased to violate the neutral commerce of the United States; not that it was a fact existing in his knowledge, but that it had been officially made known to him that on a certain day they would be revoked, I am not, sir, disposed to find fault with this proceeding. Perhaps it may be considered, the intention being made known to him, that he was, from the courtesy between nations, bound to believe the fact. He was to take for fact that the unlawful edicts were revoked, because it was promised that on a certain day they should cease. But, sir, I submit it to the cool judgment of the House whether, although, from this sort of courtesy necessary and proper to be exercised in a negotiation between the United States and France, the President was bound to believe that these edicts were so modified as to cease to exist; whether the British Government was bound to believe it? To the British Government was given by the law three months to abandon her Orders in Council—after what? After the French Government had intimated an intention to rescind its decrees? No; after the French decrees had been so revoked or modified

as to cease to operate on the neutral commerce of the United States. The same reason of courtesy which was obligatory on the President would not operate on her rival belligerent, Great Britain, to oblige her to believe it. It may then be questioned whether that state of things existed which Congress had contemplated, three months after which the non-intercourse with Great Britain was to commence. The actual intention of Congress was this: Each nation taking the ground that her edicts were consequent on the unlawful edicts of the other, and each asserting so stoutly, that it was really difficult to know whether either was in the wrong, and, if either of them, which; the law was passed to ascertain which would persist. So far it was a well-judged law; so far as it provided that if one ceased to violate our rights, and the other did not follow her example, we should be in a state of non-intercourse with that other. But we should have given that other a fair and reasonable time to know whether she would abandon her system or not. If she did not, it would then appear, that that Power, supposing it to be Great Britain, was most seriously intent on injuring us. Therefore, in that event there would have been but one voice in the nation. For this reason, although I had no agency in it, I was always pleased with this feature of the law.

But I must say, sir, that it does appear to me that the course pursued has not produced the state of things which must have been the object of the law and of Congress; for, instead of dating the proclamation from the time when these edicts had ceased to violate the commerce of the United States, it was dated from the time when France had promised they should so cease; and, as between France and us, I have no objection to the proposition. But, as between us and Great Britain, to take the second of November, when France was to withdraw her decrees, as the time from which to count three months' interval, was irregular; because it was not and could not possibly be known whether she had actually revoked them. Whatever France had promised, the fact of revocation could not have been known to the President.

But if, to carry into effect the purpose, and what I deem the legitimate object of this bill, it was proper to take the promise of France at the last summer, and because such a promise was made, it was right to infer that such an act was done; for the purpose of dealing fairly with both nations, I ask why the proclamation was not issued as to both? Did not Great Britain also promise, if France fulfilled her engagements, that she would also revoke her edicts, declaring that she would wait until that fact was ascertained? Here, sir, is promise for promise. If the promise of one to rescind be taken as rescinding, so the promise of the other to rescind is to be taken in the same way. In this part of the argument, I am bound to consider both nations as intending to keep their word with us. The fact undoubtedly is, if France in point of fact has ceased to violate our neutral commerce, Great Britain must

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have ceased to violate it too; because this state of things then existed: Both powers conditionally engaged to revoke their illegal edicts—France did so, it being understood that the United States caused Great Britain to revoke her orders and blockades; Great Britain followed her example, it being understood that France keeps her word.

In this posture of our affairs it does strike me we cannot without partiality, evident and palpable, remove all restrictions against one, and continue them against the other. While I approve the courtesy with which the Executive received the declaration of France that her edicts would be rescinded, I cannot advocate the disbelieving a declaration precisely similar in substance from the other belligerent. It may well be doubted, as to the operation of the non-intercourse law, whether that state of things existed in which the President could say that the edicts of France had been modified. He has not said so, and he could not say so, sir, because he could not know it. All he could say he has said, to wit: that it was officially made known to him (not that he knew it of his own knowledge) that the decrees were to have ceased on a certain day. Have we really given to Great Britain the three months required by the law? From the time of promise we have, but not from the time of actual cessation to violate our neutral rights. Have the edicts of France been so revoked as that they ceased on the first of November to violate our neutral rights? Assuredly, whatever reason there may have been to suppose they had been so modified, every gentleman must now be convinced they were not so modified, because new seizures took place in December. In what situation then, sir, do we stand? If this law of May last be a pledge in one view, it is a pledge in another. We have given a pledge to Great Britain, if she cease to violate her edicts within three months after France shall do so, we will have no non-intercourse act as to her. Well, if on the 8th of December, France had not ceased (and that she certainly had not) to injure our neutral rights, I ask whether it be fair to count time from the 1st of November? Should we not at least commence with the 8th of December, because France had not then ceased her violations? It does appear to me, sir, that there can be but one answer to this question. Great Britain was not bound to believe France, but to put an end to her edicts when France should cease to violate our commerce.

The original policy of this law, sir, I do not hesitate to say, is departed from if you begin to calculate time from the first of November. We are now in a state of non-intercourse with Great Britain, and I know not how we are to get out of it unless by a repeal of the law. It surely cannot be imputed to Great Britain as wrong that she did not believe the belligerent opposed to her. Now the actual state of things is, that neither has revoked its edicts as far as we know anything about it. If neither has ceased her violations, the fact required by the law has not existed.

Now, though the President may have executed his power fairly; yet, if this act is to be our guide, we are not yet in a condition to ascertain the result of our experiment, and therefore ought not to be in a state of non-intercourse. Is it the intention of the House, after what has occurred, that the President's proclamation growing out of this should take effect—that we are to be on friendly terms with France alone—when not a single instance has occurred in which she has departed from her measures? Would you, under present circumstances, and under a different state of our laws, pass a law that we shall have intercourse with France and none with Great Britain? Assuredly you would not. No gentleman would agree to it. And the same reasons which would induce us not to agree to it should induce us to put an end to that state of things in which we are placed. I am agreed that we shall wait to hear from France; it is perfectly right; but it is equally right to wait to hear from England how she will act when the state of things arrives on which she has pledged herself to act. This can only be done by a repeal of the law, and there can be no use in sending back to the Committee of Foreign Relations a bill reported under the belief of the existence of a state of things different from that which we are officially informed does exist. If there be any other mode by which we can resume an impartial position between the two belligerents, I am willing to agree to it; for that was the real object of this law, to ascertain whether justice would be done by either. I am free to say that I do not believe that commercial restrictions will induce either to abandon its course unless the other does. Neither will begin. What measures should be adopted in that case is not for me to say. If we continue to be injured by both the belligerents, one thing is proved: that this non-intercourse system is not strong enough to bring either or both of them to terms. You cannot operate on them, unless perhaps by a promise to go to war with one if the other shall revoke its edicts, &c.

As to the argument in favor of delaying a decision of the present question, the sooner it is decided the better. Vessels now arriving from Great Britain, who is no more to blame than France is, are subject to confiscation, and not English but *bona fide* American property is thus confiscated. But, as the gentleman from Virginia says, let us have clear stays, let us begin to legislate anew. Our present system has not produced any good, nor can it; and if France should revoke her edicts, we can re-enact the non-intercourse.

To conclude, sir, I put the question in this plain, palpable form: Both belligerents, for aught we know, continue in force their unjust edicts. But we are in a state of intercourse with one, and non-intercourse and inhospitality with the other. Shall this state of things continue? Gentlemen must say no. If so, the next question is, how shall we put an end to this unreasonable, partial state of things? Only by repealing this act, leaving ourselves at liberty to devise such

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new system as shall be best suited to our circumstances and the present state of the world.

Mr. McKim was decidedly favorable to the recommitment of this bill for the reasons assigned by the chairman, &c., so as to relieve citizens of the United States from unreasonable difficulty; but he was opposed to the amendment offered to the motion, because it could not be adopted without a manifest breach of faith, and he hoped it would always be one of the first of objects with the Government to keep its faith with all the world. I am not of opinion, said Mr. M., that the law passed last session, authorizing the President's proclamation, was merely a rule of action for our own citizens. It went further. It held out a motive to Great Britain and France to induce them to cease depredations on our commerce.

It appears that France has availed herself of our proposition, and has officially announced that her decrees ceased operation on the 1st of November last. Agreeably to the terms of the law, the President has announced this fact by proclamation. France having acted on this law, it will be out of our power, without the most flagrant breach of good faith, to say that we will repeal that law; that France shall not derive the benefit contemplated by it. The gentleman from New York has observed that there is a distinction made in our procedure toward the two nations; that we have no evidence that France has so revoked her edicts that they ceased to violate our neutral commerce. When we compare the circumstances of the arrangement of April, 1809, with Great Britain, and that of November last with France, we shall find the expressions in both cases to have been much alike. Great Britain stated to our Government that her Orders in Council, on a given day, should have ceased; France, that her edicts would cease to operate. I can see no distinction here. It is the courtesy between Governments to take the assurance for the act, and not to wait, as individuals, to see whether they would do what they promised, &c. The President, in both these cases, has pursued this course—a course, in my opinion, seldom deviated from.

A great deal has been said relative to the inconveniences of the non-intercourse, embargo, and the restrictive system generally. That has no bearing on this question. The real question is—Is our faith pledged to France, and shall we comply with it? If restrictive measures are inconvenient, it is no argument against our complying with our engagements. We are bound to carry the law into effect. I hope this nation will never be guilty of a breach of faith, but will continue at all times to fulfil the engagements she has entered into. For these reasons, sir, though I am anxious that the bill should be recommitted, I am as anxiously opposed to the repeal of the law, as proposed by the amendment.

Mr. Fisk said that, on taking his seat this morning, nothing was further from his expectation than the discussion in which he found the House engaged: although unexpected, this dis-

cussion was not unimportant. It was important as related to the commercial interests of the country, and to the honor, character, and good faith of the Government; and he regretted that he had been prevented from taking his seat in time to hear the arguments of the honorable gentleman from Virginia, (Mr. RANDOLPH,) in support of the amendment he had offered to the consideration of the House. We are called upon by this resolution, said Mr. F., to instruct the Committee on Foreign Relations to prepare and bring in a bill, to repeal the act concerning commercial intercourse, &c., passed the 1st of May last. This directs our attention to the provisions of the law proposed to be repealed. The law embraces two principles—the interdiction of the entrance of foreign armed vessels into the harbors or waters of the United States, and a provision that, if Great Britain or France should, before the 3d day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, the fact shall be declared by proclamation; and, if the other should not, in three months thereafter, also revoke or modify her edicts in like manner, that then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act to interdict the commercial intercourse between the United States and Great Britain and France, should be revived and have full force against the nation refusing or neglecting to revoke or modify her edicts, and the restrictions of the act of the 1st of May last were to cease in relation to the nation so revoking or modifying her edicts. The operation and effect of the sections of the act, revived by the proclamation, will be a prohibition of the importation of any goods, wares, or merchandise, of the growth or manufacture of the nation refusing to revoke her edicts, and a free intercourse with the nation revoking.

On the 2d day of November last, the President, pursuant to the authority given by the act of the 1st of May, issued his proclamation, declaring that it had been officially made known to this Government, that the edicts of France, violating the neutral commerce of the United States, had been so revoked as to cease to have effect on the 1st of November—consequently, the sections of the act interdicting importations from England were revived, and are this day to take effect. By the law of the 1st of May, we made an offer, embracing a promise, to both the belligerents. We said to Great Britain, revoke your Orders in Council, and we will exclude every article of French merchandise from our markets—to France, revoke your decrees, and we will exclude British merchandise. These offers were made to both nations. England neglects—France accedes to the proposition we make, and gives our Government official assurances that, after the first of November, the Berlin and Milan decrees will cease to have effect. What, then, becomes the duty of this Government? Why, undoubtedly, to observe and fulfil, with good faith, the promise it has made; and yet we are debating whether we shall observe it, or by a solemn act resolve that we will

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be released from it; that we will pay no regard to this national engagement. While we complain of the "*punica fides*" of other nations, we are about to violate the plighted faith of the American Government; to commit the very fault we so readily and justly condemn in others. On this 2d day of February, when the offer our Government has made is to assume the more imposing and solemn form of an obligation, are we to deliberate whether it requires our observance or not? In all the railing accusations made against the American Government, not even its enemies have charged it with a wanton violation of its good faith. And, sir, rather than our Government should by any act merit this imputation, I would see one half of all the American property sacrificed. On this day, the law of the 1st of May becomes a national compact between the American and a foreign Government; and whatever may now be our views of the policy and advantages of the measure, we are not at liberty at this time to revoke or abandon it. We are pledged to carry it into effect with good faith.

The honorable gentleman from Virginia has told us that this law is our own; that it is a rule of conduct. I admit the definition to be correct. All laws, even the laws of gravitation, are rules of action. But this law is not a mere municipal regulation to govern the conduct of the American people in relation to measures confined to themselves, without regard to others. The rule of conduct prescribed by this act, is more extensive; it connects a course of policy we have promised to pursue, with the interest and policy of another Government. There are now two parties to be governed by this rule, and we cannot, consistent with good faith, as one of the parties, say that we will not regard this rule of conduct, which, on the happening of certain contingencies, we are pledged to observe. Has it not been officially announced to us by the French Government that their edicts would, on the first day of November, cease to have their effect? Has not this modification been made known by the President's proclamation? Yes, sir, these events have happened, and we are bound in good faith to carry into effect the act prohibiting importations from Great Britain, unless indeed the British orders shall have been also modified or revoked on this day; because we have, by a legislative act, declared that, on the happening of these events, all importations of British goods into this country should cease.

But, it is contended by some gentlemen, that the French edicts are not revoked, and the seizure of the "New Orleans Packet" at Bordeaux, in November, is relied on as evidence that the Berlin and Milan decrees were then, and in that instance, enforced against American property. The information contained in the Message of the President, communicated to this House the day before yesterday, in relation to this seizure, renders it doubtful whether the New Orleans Packet was seized for a violation of the Berlin and Milan decrees, or for some other cause; and we have no evidence that this seizure was made by

the order of the French Government. When the despatch of Mr. Russell left Paris, the views of that Government, in relation to this act, were unknown to our agent. It is uncertain upon what grounds the seizure was made. And in this state of uncertainty, shall we determine the grounds upon which it was made, and say that it was made for a violation of the decrees which that Government have assured us were revoked, when the next arrivals from France may bring information that the French Government have disavowed this act of the custom-house officer, and restored the property? No, sir, let us wait for further intelligence before we act upon this subject. Suppose that we should pass this resolution, and repeal the act of the 1st of May, and, by the time this repealing act becomes a law, information should be received from France that her edicts, violating our neutral commerce, have ceased to have their effect; that American vessels and produce are admitted into all the ports of France upon terms consistent with the rights of a neutral Power, upon the conditions, however, mentioned in the President's proclamation? Are gentlemen aware of the difficulties in which such a state of things must involve us, and of the dangers to which all American property in the power of France would be subjected? It is certainly possible that the next despatches may bring information of the total revocation of the Berlin and Milan decrees, however much the contrary may be apprehended; and I am willing to own, sir, that I have no great confidence in the success and protection which commerce is to find under that Government, which causes accounts to be published in its official papers of the conflagration of merchandise. I am ready to admit, that all hopes of commercial freedom and prosperity, in such times and under such a Government, will probably prove illusory. But your attention is directed to another quarter. Let it be admitted that the French decrees are still in force, and let us suppose that the British orders have been repealed or modified before this day, can we feel justified in repealing the act of the 1st of May? Certainly not. For if Great Britain revokes her edicts, and France does not, then we are pledged to carry this act into effect against France; and, in either event, we are not at liberty now to repeal it, unless we entirely disregard the promise we have made. We are bound to wait until we can learn the state of things in England on this day; until we can ascertain whether the British orders are this day in force against us or not; and, until this information can be obtained, we are not, in my opinion, at liberty to repeal this act. To repeal it would be an injury to the merchants instead of a benefit; it would expose them to increased risks and dangers.

We have been often advised to leave commerce unrestrained, and told that the merchants knew better than Congress the dangers to which trade was exposed. But the predictions which have been made on this side of the House, of the hazards to which trade was exposed, although at the time deemed evil and unfounded, have, unfortu-

tunately, proved true. When, under the non-intercourse system, the avenues of trade to Tonningen and St. Sebastian's were left open, the merchants, in fancied security, crowded these markets, and the voyages have resulted in the seizure and sequestration of their vessels and cargoes; and, before gentlemen urge, as objections to the system of commercial restrictions we have pursued, the embarrassments which trade has suffered, they ought to show that, independent of these restrictions, trade would have been free and unembarrassed. For the captures, seizures, and sequestrations of American property have not been in consequence of any acts passed by Congress.

However averse we may feel to rely much longer upon experiments of commercial warfare, such at this time is the state of our foreign relations, as to preclude any material change in the attitude we have taken. The most we can consistently do, with the information now before us, is to recommit the bill reported by the Committee on Foreign Relations, in order to make way for an act to relieve American vessels and merchandise, in certain cases, from the operation of the act of the 1st of January last, which is to take effect this day. Thus far we may go, but to proceed farther, at this time, would, in my opinion, be premature. I therefore hope the bill will be recommitteed, and the proposed amendment be rejected.

Mr. QUINCY was in favor of the motion under consideration, but did not rise to go into the discussion. As to the violation of our faith, he said he would ask one question; whether our faith's pledge did not rest upon this single point; that on the first of November the edicts of the French Emperor were repealed? If they were not, all pretence of a pledge of the faith of this nation under the law was fallacious. I ask the House, said Mr. Q., if we have not perfect evidence that this was not the case? Look at the letter just laid on our table. Our faith was pledged upon the fact of the revocation of the decrees occurring; and that fact not having occurred as late as the 11th of December, no edicts having been repealed, we are at liberty to do as we please. In the first place, I will state a fact, that this Government has no evidence of any act done on this subject by Napoleon the Great. All the evidence we have on the subject is a declaration of the Minister of Foreign Affairs. If gentlemen recur to the Berlin and Milan decrees, they will find that those decrees are fundamental laws of the French Empire, and for their repeal of course require the same formality and authenticity as for their enactment. If they are not repealed in the form of the repealing law in such cases, the fact has not occurred upon which the faith of the nation rests; upon gentlemen's own ground. Now, sir, I ask if there be a gentleman in this House who pretends that there ever was a repeal of the Berlin and Milan decrees? What evidence have we on this point? In the first place the fact that the brig New Orleans Packet was seized at Bordeaux under the Berlin and Milan decrees by the col-

lector of the customs; so that, so far as related to the custom-house at Bordeaux, the fact had not been announced in December. We have next the declaration of Jonathan Russell, who in his letter to the French Minister of Foreign Affairs, although he goes into a course of reasoning against the seizure of the vessel, declares that it will not be pretended that those decrees have been revoked. How then, sir, can gentlemen rest anything on the plighted faith of this nation, when that faith was pledged, if pledged at all, on a contingency which has not occurred? The French Emperor, in order to hold the plighted faith of this nation, according to gentlemen's own reasoning, must have done an act which was a repeal of a fundamental law of the Empire. No such act has been done; the faith of the nation then is not pledged.

Mr. CHEVES said he was not sorry that this amendment had been proposed; he was not sorry that the subject was now agitated, because it had already had the effect of eliciting private opinion on a subject on which every one hesitated and doubted how to act; and because it would enable them to embody public sentiment. But, after so much had been done, he hoped, for several reasons, that the question on the repeal of the law would not now be taken, but that the bill would be referred to the Committee of Foreign Relations. The honorable and eloquent gentleman who had made the motion (Mr. RANDOLPH) was not more dissatisfied with the state of our foreign relations than he was; or more satisfied of the futility of those measures lately adopted. Mr. C. said he had never been satisfied of the wisdom or propriety of the law of May last in any other view than one. He believed it would make the country act apart worthy of its character; it would precipitate us on a particular enemy—and this he believed the country required. He believed a more direct and proper course should long ago have been resorted to. The questions now before the House were, whether the bill should be recommitteed to the Committee of Foreign Relations for the purpose of amendment merely, or whether the motion for recommitment should be coupled with one which it appeared to him could not with propriety be ingrafted on it. The motion as originally made went to the modification of a law; the proposed amendment to a repeal of it. It appeared to him that the latter should properly rise as a substantive question. He should not be sorry if the bill was recommitteed merely for the purpose of singing its requiem; he should not be sorry if it should eventuate so as to remove the trammels in which the act of May might have shackled us. He said he wished, as much as any one, that the nation should be untrammelled and in a situation to act in a manner worthy of its former spirit and its honor. But in the present case he believed the nation could not act, and that it was committed as to the course it should pursue. He would meet gentlemen on that footing. Unless, he said, a breach of faith was intended, they ought not to adopt the proposed amendment. If the Berlin and Milan decrees were not revoked on the first

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of November, he agreed that the House were not under an obligation to reject the amendment proposed. But it was not in this stage of the business proper to adopt it. The gentleman who moved it predicated it on the facts communicated by our agent in France, or on the general conduct of that nation. He had said that the engagement was ineffectual; that the House was not bound to carry it into effect, because they were informed by the late communication from the President, that it had been violated on the part of France; because it had not been acted on in the spirit of good faith; because her depredations had been such as to make this matter embrace but an imperfect part of them. And if this appeared to him to be the case, Mr. C. said he should concur with the gentleman in opinion. But that not being the case, he said he would endeavor to show that we are placed in such a situation as to oblige us, in observance of good faith, to adhere, at least for a time, to the measures we have adopted. He would say his fears were that it had been violated on the part of France; but that there was no reason for acting with precipitation. The vessel bringing Mr. Russell's letter having left France 1st of January, and conveying no later authentic information, was a circumstance from which he argued unfavorably. But there was no reason for precipitation; and they would act with propriety if they should wait till later intelligence was received. If, within a reasonable time no disavowal of the seizure should be made on the part of France, he should be disposed to take it as *prima facie* evidence of a violation of her faith. But were the House compelled now to act? Could they not delay for a few days? He thought they might; and therefore objected to the consideration of the proposition to repeal the law of May last, at this moment; and wished it postponed till they could enjoy the advantage of further information. If they were now to act, and should shortly be informed that the act was disavowed, what would be their situation? Would it not be a breach of plighted faith or compact? Was it not better that the nation should preserve all it had left—its good faith? Its property and honor had been sacrificed; and all that was left was its good faith. If that were cherished, it would operate as an ennobling principle. He hoped the House would therefore hesitate; and, as long as they might suppose that they should depart from good faith by adopting the amendment proposed, that they would refuse to agree to it. As the gentleman who moved the amendment excelled in honorable personal sentiment, Mr. C. said he would believe that he also cherished an honorable national sentiment. But he apprehended that no violation of her faith by France was ascertained, either by the declaration of France or by the occurrence of delay sufficient to warrant the presumption that the seizure at Bordeaux was an authorized act. There had been a violation in fact of the engagement, but it was not ascertained to have been under the authority of Government. It was neither ascertained by a positive declaration or sudden silence that such was the fact. If

it was, he should be willing to adopt the proposed amendment.

One gentleman had observed that the amendment ought to be adopted because the nation had heretofore endeavored, by all the means in its power, to counteract the measures of the belligerents and failed, &c. He said he differed from the gentleman in opinion that all the measures which could be tried had failed. He believed the country to be equal, without the imposition of direct taxes, to meet all its foes, to call forth all its energies; and he should not believe that it was not the disposition of the country. The evil was that Congress had not applied the proper excitements; it was not because the Government had not come up to the tone of the people. When the exigencies and necessity of the nation should call for it, the people would bear even direct taxes. But nothing of that kind need be looked to; the credit of the nation remained unshaken, its faith unbroken. Let us preserve that, said Mr. C., and we are safe; and I believe the time is not far distant when it will be the interest and true wisdom of the Government, as it is the actual disposition of the people, to resist the injuries inflicted on us.

Another gentleman had said that an incorrect construction had been given by the Executive to the law of May last. Mr. C. said he differed from the gentleman as to the construction. He quoted the law, which provides that when either of the belligerents shall so revoke or modify its edicts as that they shall cease to violate the neutral commerce of the United States, then certain consequences shall follow. The argument of the gentleman from New York (Mr. GARDENIER) was, that the law provided that when either of the belligerents should cease to violate our rights, &c. then such effects should follow. But Mr. C. said, the law provided that whenever either of the belligerents should so revoke or modify its edicts as that they (the edicts) should cease to violate, &c. then the President was to issue his proclamation, &c. Had not France so revoked or modified her edicts? Had she not said that her decrees would cease to exist on the first of November? What was this but a modification as required by the law? Though she should not act in conformity to her revocation, it would not produce any change in the fact. Though she should continue to violate the commerce of the United States, she will notwithstanding have so modified her edicts and decrees as that they should cease to violate the commerce of the United States. The seizure of the Orleans Packet was a violation of our rights; but the decrees were nevertheless extinct. What is a decree? A declaration of the volition of the mind. One declaration causes it to exist; another causes it to cease. The late seizure of our vessels, if authorized, is a violation of our rights, but not under those decrees; for the decrees have been declared not to be in force.

But, said another gentleman, (Mr. QUINCY,) the decrees were not revoked, because they were fundamental laws of the Empire; and the alleged revocation was but a declaration of the Minister, and that it was necessary that the decrees should

be revoked by a higher authority. It is necessary, said Mr. C., for the gentleman to prove that it is not an equally high authority. I deny, that it is not. It is necessary for the gentleman's argument to prove that the substance consists in the form. I deny it, sir. There is a form in which acts are enacted; but forms may be dispensed with. Is it true that the fundamental laws of the Empire, the municipal laws, are obligatory on foreign nations? and is it necessary to the treaty-making power or to the execution of it, that the party treating should be possessed of a perfect knowledge of the laws of the country with which it is treating? No, it has nothing to do with it. It is not a matter of inquiry by the negotiator. The treaty-making power, the Sovereign of the country, declares that they shall be revoked. Sir, shall we hesitate in believing that the Government of France is a despotism; that all power resides in its ruler? When such is the Government with which you treat, what do you want but a declaration of the Governor to show what is the law of the country? No man doubts its supremacy. The declaration of his will is complete evidence of what shall be considered as obligatory on that country. Have we not then an unequivocal declaration of his will? To me it appears we have. I say, sir, that the decrees were removed, and that if the violation of our rights continued tomorrow, yet the decrees were so revoked on the first of November as that they did cease to violate our commerce. If our rights are now violated, it is a violation independent of the decrees, by the mere will of an arbitrary and powerful Government. If the decrees are thus revoked, we must have evidence satisfactory indeed to prove that they are in fact adhered to. This evidence we have not; but if it be afforded by an express declaration or uncourteous silence in answer to the remonstrance of our agent in France, it will then and not till then be an incumbent duty to act on the subject.

For these reasons I am of opinion we ought not at this time to act on a question not necessarily connected with a recommitment of the bill. I hope that the committee will be permitted to go on and prepare to meet circumstances which may occur. And, sir, I should not be sorry if the committee had no other duty to perform than that of chanting its requiem. I do not consider the law a benefit. I admit that nothing good is likely to result from a commerce with France; whilst her enormous duties exist, it will be a commerce without any benefit and therefore illusory.

Mr. WHEATON said, if it was agreed on all hands that the people of this nation were in an embarrassing situation; if it was equally agreed that our embarrassments had risen out of the law passed in May last, why not repeal that law? Mr. W. said he was not disposed to criminate the conduct of those who enacted that law, nor was it necessary at this time to criminate the conduct of the President of the United States in issuing his proclamation in pursuance of it. But in order to get rid of the embarrassments conse-

quent on that law and the proclamation of the President, it was proposed that the law should now be repealed; and he thought no gentleman had as yet pretended to point out any mode by which this nation was to be freed from those embarrassments, other than a repeal of the law out of which they had grown; and it seemed now to be the wish of all, or almost all, that this law were out of the way, provided it could be removed consistently with that good faith which gentlemen seemed to think pledged by this Government to the nations upon whom this law was intended to operate. The principal difficulty appeared to be with respect to the faith pledged to the French Government.

It had been said that one of the objects of this law, the repeal of the Berlin and Milan decrees, had actually been obtained on the first day of November last; and, that being the case, that the Government was now pledged to carry the law into effect. Whether the decrees were repealed or not, Mr. W. said, he did not pretend to say. The President of the United States was, on the 20th day of November last, convinced of the fact. Whether the Berlin or Milan decrees were or were not repealed under all the formalities necessary under the French Government for such an act, Mr. W. said, he could not conceive that this Government was in any manner pledged to the Great Emperor to revive a measure against Great Britain so embarrassing to the great interests of this country. It seemed before this law had been enacted a sequestration had taken place other than that under the Berlin and Milan decrees, the effects of which had been more pernicious to the commerce of this country than those decrees. Permit me to ask, said Mr. W., if a man steal one of my horses, and I promise him if he would not steal another I would not prosecute him for stealing the first; and it should turn out that before I made this promise he had stolen the second horse, and he finally refuses to restore either—let me ask whether I should be bound in good faith not to prosecute him for stealing the first? We do not require of the French Emperor a promise of restoration, but a promise that he shall do so no more. Before we passed this act, however, he had done other acts than those contemplated by the law, from which more mischief had resulted than from all he had done before—ought he not to have made restoration before he could claim a performance of this promise from us? Would anything have been more reasonable, and was not that the opinion of our Executive all along? Did he not, in the communications to our Minister in France, tell him expressly that this law in favor of France should not be carried into effect unless the French Emperor should as well revoke those decrees as provide for a reparation of the mischief he had done in the mean time? I contend, sir, that it was not within the view of the President, when he issued his proclamation, that it should have effect unless restoration was made of the property so taken away. Besides, sir, have we a right to expect, or did this law contemplate anything more on



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the part of Great Britain than the rescinding her Orders in Council? But it seems now, sir, that the French Emperor deserves less at our hands but demands more than when this law was made; not only the rescinding of the Orders in Council, but something further which was never contemplated by the law; that is, a repeal of a blockade enacted in 1806. And our Government have given the British Government to understand that she would derive no benefit from rescinding the Orders in Council without also revoking the blockade instituted in 1806. Sir, are not the expressions in this law the same as in that of 1809, under which an arrangement was made with the British Government? Did the President in pursuance of that law issue his proclamation? He did. Was there any provision then made for a revocation of the blockade of May, 1806? There was not. Then neither this Government, France, or England, had any right to expect that that blockade was to be looked to or affected by the law of May last.

Now, sir, under all these circumstances, when the French Government demands more and deserves less, are we bound to carry the law into effect? No, sir; not even though we were certain the decrees of Berlin and Milan were repealed. Notwithstanding I shall always expect an ingenious argument on any subject from the gentleman from South Carolina, (Mr. CHEVES,) I was a little surprised at the ingenuity of the argument, that although the Berlin and Milan decrees were repealed to-day, and to-morrow the same conduct should be pursued under other decrees—that in that case the French Government would have been said to have complied with our intentions—

[Mr. CHEVES explained. He had only spoken of the construction of the law, and had not intended to say that the revocation of the Berlin and Milan decrees would exonerate us from noticing other injustice. If we had satisfactory evidence of subsequent injustice, he should be disposed to act on it as he would have done on the Berlin and Milan decrees.]

Mr. WHEATON appeared to be satisfied with this explanation, and concluded his remarks.

Mr. WRIGHT spoke in explanation of his former observations.

No member appearing disposed to rise—

Mr. RANDOLPH said, that if no gentleman wished to take up more of the time of the House, he felt very little disposition to do so: at the same time he wished to be distinctly understood, as to the pledge of public faith. His idea was, that the state of things under which the law passed remained unaltered; but in his opinion no possible act, whether of a friendly or hostile character, on the part of France or Great Britain, could have tied the hands of this Government in relation to the law in question. He could never believe that it was anything more than a rule of conduct to our own Government and to our own people; a warning to the people of what the law was to be; a preparatory caution to them; or, if gentlemen chose to go so far, a pledge on the part of

this House to their constituents as to what our future conduct would be towards the two belligerents. He protested against the right of any foreign Government to interfere in the expounding of the laws of this land, unless where their subjects were aggrieved by them. The only mode in which this Government could become bound to another was by treaty.

Let us look back a little while, said he. We once had, if I recollect right, a report before this House declaring that only three possible alternatives presented themselves to the country—war, embargo, or disgrace. I put it emphatically to the advocates of that position—are those, who would have neither war, or embargo, willing to concede that by their act the nation has been disgraced? I put it to the gentlemen whether any pledge of this kind, given by a vote of this House, can at a subsequent time be conjured up, to terrify us into the adoption of measures, which every man acknowledges to be pregnant with great public detriment, if not with ruin.

My object in bringing forward this motion was to give that practical relief to the people whom I represent which they now do, or soon will stand in need of—to do away a system which has no effect upon their enemies, whose deleterious operation is confined to themselves alone. I want, sir, to relieve the Virginia planter, and not to settle questions of good or bad faith, or of mode or courtesy, with the French Emperor or his courtiers. We do appear to me to have involved ourselves in a most embarrassing situation. I am sometimes inclined to doubt whether some frenzy has not seized upon us. Gentlemen get up and depict in the strongest colors that they can command the injuries we have received from both belligerents. It seems to be the unanimous sentiment that they cannot be disguised or palliated, that they are self evident, and that it is a waste of time to attempt to describe, much more to demonstrate them. When, *hey-presto!* in the next breath we stand in such a relation to the Emperor of France that it is sacrilege to doubt—what? His disposition to injure us? No. That in fact he has injured us? Not at all—to doubt that he has in any one instance, although the proof is all the while staring us in the face—that in any one instance, this Imperial and Royal Personage has been found to depart from his imperial and royal word! God bless us! and is this the man of whom and of whose acts such pictures are drawn on all sides of this House, by men of all descriptions? Are the practical wrongs which the people of this country have received to be salved over with douceurs of etiquette? If that be the case we should send some dancing-master, some master of the ceremonies; if any such we have among us, to exchange bows with Duroc, the Imperial Grand Chamberlain; things might be settled in the style of the old *minuet de la cour*; they might make their honors, go all around the room in great state, and would, no doubt, end precisely where they began.

Some of the assertions—for he would call them nothing else—which had been advanced in

the course of the debate, Mr. R. said, he did not hold himself bound to notice. He must say that argument he had yet heard none on the chief point in dispute; viz: that the faith of the United States is pledged, and that that faith will be broken if the act be repealed. An honorable gentleman from New York (Mr. FISK) had proposed to get over this difficulty. How? Not by repealing the act regulating commercial intercourse with the belligerents, but, forsooth, by suspending its operation. It is said, that on this second day of February, in the year of our Lord—(we still count by the Christian era in this country, I thank God!) one thousand eight hundred and eleven—you stand bound to carry into effect a rigorous non-intercourse with England. You cannot repeal it—but then you may say suspend it! How long? From session to session, as some laws have been suspended, ever since I had a seat in this House? I take the gentleman at his word and agree so to suspend. I am for substantial relief, and if the term *suspension* will operate as a salvo on the conscience of the gentleman from New York, no doubt it will be equally potent and operative with others.

Again, listen to my worthy colleague near the door (Mr. EPPES.) He too conceived that we were pledged to France. In redemption of that pledge he had brought in a bill for the rigorous enforcement of non-intercourse with England. He now moved to recommit the bill. Why? "There hung" he said, "a cloud over that quarter"—it was, however, but a "speck" in the horizon, not of war, but of treachery and ill faith. What, sir, had the Committee of Foreign Relations proposed to do? It was to carry into effect with good faith this contract which they say we have made with France, and which I say we did not make. Was it not the object of the bill, which the gentleman this morning moved to recommit, to carry into effect the stipulations said to have been entered into between us and France? Unquestionably it was. The gentleman, then, by his own showing, has found cause in the conduct of the French Government for failing to do that which by his own argument the United States are bound in good faith to execute; over which they have not any discretionary power whatever. The question is surrendered, sir, entirely on the other side. The expedient of the gentleman from New York to suspend the operation of the law—the proposition of the gentleman from Virginia to delay carrying it into execution, as he had contemplated before the late intelligence from Paris, are virtually and substantially, in principle, the same with my own, which has excited so much reprehension. The power to suspend of the gentleman from New York implies the power, practically, to repeal; and it is admitted by the gentleman from Virginia that a state of things has arisen in which he feels, if not released from his obligation, yet that it hangs so loosely about him, that he will desist from carrying it into effect. Upon the argument of either gentleman, the question is yielded. If the honor of the United States is

mortgaged, let it be forthwith redeemed. If it be indeed pledged let us not come halting to this House with the national faith in one hand and expedients to evade it in the other. There can be on such a question no recurrence to expedients. This is the second of February. The time has arrived—the hour now is, when gentlemen, by their own arguments, if their arguments be just, are bound to fulfil the contract, which I do not, undertake to expound, but which they say has been made, certainly in a manner very novel to our Constitution, between the House of Representatives on the one hand, and Bonaparte on the other—a bargain which, like the bargains of old, with the devil, there is no shaking off. It is a bargain which credulity and imbecility enters into with cunning and power: it is like the stock in a neighboring turnpike, which you can neither sell nor give away, but which operates as an eternal lien upon every shilling of your property. Yes, sir! I call upon gentlemen to make good their promise to His Majesty the Emperor of the French and King of Italy—to redeem their pledge—to cut off in fact nearly the whole of our existing trade, in return for the liberty of trading by license from the three favored ports which it has pleased His Imperial Majesty to privilege. No man believes—I beg pardon, sir—I was about to say, but I will not, that no man believes one syllable of this breach of faith on our part. I have too much confidence in the honor of gentlemen not to be convinced that they have persuaded themselves to this effect, although it is incomprehensible to me. Bound, sir, to whom? To Bonaparte? Bound to Shylock? Bound to render up not only the pound of flesh but every jot of blood in the Constitution. Does he come forward with his pockets swelled with American treasure—do his minions, fattened upon our spoil, whether obtained by public rapine or private extortion—do they come forward calling upon us to make sacrifices of our best interest on the shrine of their resentments, in the name too of good faith! As well might the mechanic with whom you deal present you his bill after forcing you to deliver your purse on the highway.

I did not intend, sir, to say anything on this subject; but except the gentleman from New York, (Mr. MITCHILL,) not one has risen on this side of the House who has not contended that a breach of faith is involved in my proposition. I am sorry to speak of sides of the House, but they have been already named in the most significant manner. I wish, sir, that as the gentleman from New York and myself are likely to be alone on this question, he could derive as much consolation from voting with me as I shall have from having the support of his learning and ingenuity.

Mr. RHEA, of Tennessee, said that the law of the first of May last was not a law made by the House of Representatives alone, but by the constituted authorities of the United States, and was a most solemn obligation. The operation of that law did not depend on the bill reported by the Chairman of the Committee of Foreign Re-

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Commercial Intercourse.

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lations, now proposed to be recommitted; that bill might be rejected and lost; but the law of the first of May would go into effect immediately after twelve o'clock in the night following this day. The bill, to recommit which the motion is made, is not that on which a non-intercourse with Great Britain is bottomed; it is an auxiliary only, but not an essential one, to the law of the first of May; and contains provisions more effectually to enforce it.

The opinion respecting the law of the first of May, at the time it was enacted, is the same as that now entertained by me. It is not a law of mere internal police for the citizens of the United States, containing regulations of conduct in their commercial proceedings. It is a law offering a friendly proposition of contract and agreement, involving the destinies of nations. By that law a proposition of friendly agreement was offered in the most conciliatory manner, and consistent with the most rigid neutral principles, to Great Britain and to France. The language of that law, in other words, is: You, Great Britain, and you, France, have respectively, by your commercial restrictions and edicts injured the United States, and deprived them of the enjoyment of their neutral rights; one other proposition is made to you. If you, France, or you, Great Britain, will repeal your respective edicts, so that they shall cease to violate the neutral rights of the United States, and will inform the President of the United States that you have so done, then he shall announce the same by proclamation; and if the other of you will not, within three months after the date of that proclamation, have so revoked your edicts as that they shall have ceased to violate the neutral rights of the United States, then, and in that case, a non-intercourse shall be enforced between the United States and whichever of you shall refuse to repeal your edicts.

At the time the law was enacted, it was not known that France and Great Britain, or either of them, would agree to the proposition offered in that law; that law, therefore, was impartial. Copies of that law were immediately sent to the Ministers of the United States at Paris and at London, with intent that the copies, with the least possible delay, be officially presented to each Government, that they might act on the subject as they might judge fit and proper. Great Britain had the power of choice and election as well as France, whether she would prefer a friendly and amicable intercourse, or a non-intercourse with the United States. France has agreed to the proposition offered by the United States in the law of the first of May. France has preferred a friendly and amicable intercourse with the United States, and, in pursuance thereof, has revoked her Berlin and Milan decrees, so that they have ceased to violate the neutral rights of the United States; and in consequence the President of the United States issued his proclamation accordingly. No information is arrived, declaring (and it is not believed) that Great Britain has repealed her Orders in Council, so that they have ceased to violate the neutral

rights of the United States. The day of the existence of the non-intercourse is at hand; Great Britain has itself only to blame for the state of things that will be, that is, for the non-intercourse and the events consequent thereto. The law of the first of May is now absolute. France has acted on it, and made it irrevocable. That law may be revoked by a violation of good faith on the part of the United States, or on the part of France. If any compact can be of greater dignity than a treaty, the law of the first of May, made by the constituted authorities of the United States, and agreed to and acted on by the constituted authority of France, forms that compact. That compact and agreement, dignified in its nature and superlatively pre-eminent, by reason that it is founded on a law consented to by the House of Representatives of the Congress of the United States, is a firm and *bona fide* pledge and guarantee of amity between the United States and France. And shall we now be asked to adopt a motion to instruct the Committee of Foreign Relations to report a bill to repeal the law of the first of May, and thereby to violate a compact solemnly agreed to and sanctioned by the United States and France? Shall the Representatives of the people of the United States be called on to do an act which, if done, would effectually destroy and erase every principle of good faith, would sink this nation deep in infamy and disgrace, and which, in all human probability, would eventually draw after it a war with France and her allies? If the proposition to amend be adopted, and the law of the first of May be repealed in consequence thereof, is there one nation on earth who thereafter would trust the United States, or confide in any declaration they would make? If Great Britain had agreed to the proposition offered by the law of the first of May, and if France had refused to agree to it, or delayed that agreement, I would, said Mr. R., in that event, have urged the non-intercourse against France. France has agreed to that proposition, the President of the United States has proclaimed the fact. Great Britain has not, as far as is known here, agreed to that proposition, and, in consequence thereof, the law of the first of May commands the non-intercourse to progress against Great Britain and her dependencies. Words adequate to express my ideas on this important subject are denied to me. It only remains to declare, that I will pronounce my solemn negative against the proposition offered to amend the motion for recommitment.

Mr. GARDENIER spoke at length in amplification and explanation of his former remarks.

The question was then taken on Mr. RANDOLPH's motion to instruct the committee to report a bill for repealing the law of May last, and decided in the negative—yeas 45, nays 67, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epapoditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Barent Gardenier, Charles Golds-

borough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Joseph Lewis, jr., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Josiah Quincy, John Randolph, Daniel Sheffey, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

**YEAS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, John Dawson, Joseph Desha, John W. Eppe, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Walter Jones, Thomas Kenan, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Robert Witherspoon, and Robert Wright.

Another motion was then made by Mr. RANDOLPH, to amend the said motion for recommitment, by adding thereto the following: "with instruction to prepare and bring in a bill to suspend the operation of the fourth section of the 'Act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies.'"

And the question being taken thereon, it was determined in the negative—yeas 40, nays 67, as follows:

**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Barent Gardener, Charles Goldsborough, Thos. R. Gold, William Hale, Nathaniel A. Haven, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Philip B. Key, Joseph Lewis, jr., Robert Le Roy Livingston, Archibald McBryde, Jonathan O. Moseley, Benjamin Pickman, jr., Timothy Pitkin, jr., Josiah Quincy, John Randolph, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, John Dawson, Joseph Desha, John W. Eppe, William Findley, Jonathan Fisk, Barzillai Gan-

nett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, Robert Witherspoon, and Robert Wright.

The question was then taken on the recommitment of the bill, and resolved in the affirmative—yeas 82, nays 9, as follows:

**YEAS**—Joseph Allen, Lemuel J. Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, John Dawson, Joseph Desha, John W. Eppe, William Findley, Jonathan Fisk, Barzillai Gannett, Barent Gardener, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Nathaniel A. Haven, James Holland, Jacob Hufty, Richard Jackson, jr., Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, Joseph Lewis, jr., Robert Le Roy Livingston, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Timothy Pitkin, jr., John Porter, Peter B. Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Samuel Taggart, John Thompson, Charles Turner, jr., Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Robert Whitehill, Ezekiel Whitman, James Wilson, Robert Witherspoon, and Robert Wright.

**NAYS**—Abijah Bigelow, James Breckenridge, Martin Chittenden, William Hale, Ebenezer Huntington, Philip B. Key, Nathaniel Macon, Archibald McBryde, and Jacob Swoope.

#### MONDAY, February 4.

On motion of Mr. ROOT, the bill from the Senate, entitled "An act to incorporate the Bank of Potomac," together with the amendments reported thereto, by the select committee, on Saturday last, were committed to a Committee of the Whole to-morrow.

Mr. POINDEXTER, from the committee appointed the thirty-first ultimo, presented a bill to enable the people of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read twice and committed to a Committee of the Whole on Thursday next.

FEBRUARY, 1811.

*Amendment to the Constitution.*

H. OF R.

Mr. NEWTON laid before the House a letter from the Secretary of State to the Committee of Commerce and Manufactures, enclosing a table of customs, payable in Great Britain, upon the productions of the United States, taken from Meacall's book of rates, of 1803; which were ordered to be referred to the Committee of the whole House on the bill to secure to vessels of the United States an equal advantage in exporting articles, the growth or produce of the United States, to foreign ports; and for other purposes.

Mr. MORROW, from the committee appointed on the Message of the President of the United States, on the thirtieth ultimo, presented a bill for the disposal of certain copies of a collection of the laws, treaties, and other documents, relative to the public lands; which was read twice and committed to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the bill to authorize the election of sheriffs in the Indiana Territory; and, after some time spent therein, the bill was reported with amendments; which were read, and concurred in by the House, and the bill ordered to be engrossed, and read the third time on Friday next.

Mr. EPPES, from the Committee on Foreign Relations, reported the following bill:

A bill supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

*Be it enacted, &c.*, That no vessel, owned wholly by a citizen or citizens of the United States, which shall have departed from a British port, prior to the 2d day of February, 1811, and no merchandise owned wholly by a citizen or citizens of the United States, imported in such vessel, shall be liable to seizure or forfeiture on account of any infraction or presumed infraction of the provision of the act to which this act is a supplement.

The bill was twice read, and referred to a Committee of the Whole.

#### AMENDMENT TO THE CONSTITUTION.

The House resolved itself into a Committee of the Whole on the state of the Union, on the amendment to the Constitution, proposed by Mr. MACON.

The first question was on accepting the amendment proposed by Mr. WRIGHT to Mr. QUINCY's amendment, (requiring each member to exhibit a list of his connexions excluded from office by Mr. QUINCY's proposition;) which was decided in the negative—ayes 31, noes 62.

The second question was on the adoption of Mr. QUINCY's amendment (going to exclude blood connexions from office;) negative—ayes 25.

The question then recurred on the main resolution, and was decided in the affirmative—ayes 63, noes 31.

The Committee then rose and reported the resolution without amendment.

Mr. RHEA, of Tennessee, moved an indefinite postponement of the subject, which was decided in the negative—yeas 32, noes 80, as follows:

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YEAS—Willis Alston, jr., William Anderson, David Bard, Adam Boyd, William Chamberlin, Matthew Clay, Richard Cutts, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, David S. Garland, Daniel Heister, William Helms, James Holland, John Love, Alexander McKim, Sam. L. Mitchell, Nicholas R. Moore, John Nicholson, Peter B. Porter, John Rhea of Tennessee, Thomas-Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, John Smith, Henry Southard, Uri Tracy, Charles Turner, junior, Robert Weakley, and Richard Winn.

NAYS—Joseph Allen, Ezekiel Bacon, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John C. Chamberlain, Langdon Cheves, Martin Chittenden, James Cochran, William Crawford, John Davenport, jr., Joseph Desha, James Emott, John W. Eppes, William Findley, Meshack Franklin, Barent Gardener, Thomas Gholson, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jr., Richard M. Johnson, Thomas Kenan, William Kennedy, Joseph Lewis, jr., Robert Le Roy Livingston, Aaron Lyle, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Sam. McKee, William McKinley, Pleasant M. Miller, William Milnor, John Montgomery, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Thomas Newton, Joseph Pearson, Benj'n Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, John Thompson, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, Robert Whitehill, Ezekiel Whitman, James Wilson, Robert Witherspoon, Robert Wright.

Mr. HUBBARD then moved to amend the resolution, so as to read as follows:

"No Senator or Representative, who may have been such at the time of the election of any President, or during the term for which he shall have been elected, shall be appointed to any office, place, or employment, under the authority of the United States, until the expiration of the Presidential term in which such person shall have been a Senator or Representative aforesaid."

The question on the adoption of Mr. HUBBARD's amendment was decided in the negative—yeas 46, noes 67, as follows:

YEAS—Joseph Allen, David Bard, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, William Chamberlin, Martin Chittenden, Matthew Clay, Richard Cutts, John Davenport, jr., William Ely, Barzillai Gannett, Barent Gardener, Gideon Gardner, Charles Goldsborough, Thos. R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, John Love, Vincent Matthews, Nicholas R. Moore, Jonathan O. Moseley, Gurdon S. Mumford, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Rhea of Tennessee, Samuel Ringgold, Lemuel Sawyer, John A. Scudder, Lewis B. Sturges, Nicholas Van Dyke, Laban Wheaton, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., Wil-

liam Anderson, Ezekiel Bacon, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Jas. Cochran, Orchard Cook, William Crawford, Joseph Desha, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Thomas Gholson, Peterson Goodwyn, Edwin Gray, James Holland, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Archibald McBryde, Alexander McKim, William McKinley, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, John Montgomery, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Nicholson, Peter B. Porter, John Rea of Pennsylvania, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Ebenezer Seaver, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, Geo. Smith, John Smith, Samuel Smith, Henry Southard, Rich'd Stanford, John Stanley, Jacob Swoope, George M. Troup, Charles Turner, jr., Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Ezekiel Whitman, Richard Winn, Robert Witherspoon, and Robert Wright.

The main question was then taken, to concur with the Committee of the Whole in their agreement to the resolution, when there appeared—yeas 71, nays 40, as follows:

**YEAS**—Lemuel J. Alston, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, William Butler, Joseph Calhoun, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, James Cochran, William Crawford, Joseph Desha, William Ely, James Emott, John W. Eppes, Meshack Franklin, Thos. Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jr., Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jun., Aaron Lyle, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, William McKinley, William Milnor, John Montgomery, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Joseph Pearson, Tim'y Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Samuel Ringgold, John Roane, Ebenezer Sage, Adam Seybert, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Richard Stanford, John Stanley, Lewis B. Sturges, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, Robert Whitehill, Ezekiel Whitman, and Robert Witherspoon.

**NAYS**—Willis Alston, jr., William Anderson, Adam Boyd, Robert Brown, Matthew Clay, Richard Cutts, William Findley, Jonathan Fisk, Barzillai Gannett, Barent Gardenier, Gideon Gardner, David S. Garland, Daniel Heister, William Helms, James Holland, Walter Jones, Alexander McKim, Samuel L. Mitchell, Nicholas R. Moore, Gurdon S. Mumford, John Nicholson, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, Erastus Root, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Samuel Shaw, John Smith, Henry Southard, Samuel Taggart, John Thompson, Uri Tracy, Charles Turner, jr., Killian K. Van Rensselaer, Robert Weakley, James Wilson, Richard Winn, and Robert Wright.

A discussion here arose on the question, whether the majority of two-thirds, mentioned in the Constitution, was necessary on all intermediate

questions, or only on the final vote to pass the engrossed resolution.

Messrs. WRIGHT, BOYD, and RHEA, of Tennessee, were of opinion that two-thirds were necessary in any stage of its progress; and Messrs. MACON, TROUP, SHEFFEY, W. ALSTON, MITCHELL, and CHEVES, maintained the contrary position.

The House adjourned, without coming to a decision on this point.

## TUESDAY, February 5.

Another member, to wit: from Pennsylvania, JOHN ROSS, appeared, and took his seat.

Mr. SEYBERT presented the petition of sundry manufacturers of coarse linen cloths, in the city of Philadelphia, praying an increase of duties on the importation into the United States of foreign manufactured linen.—Referred to the Committee of Commerce and Manufactures.

Mr. PITKIN, from the committee appointed, on the thirtieth ultimo, on the bill from the Senate, entitled "An act for the relief of William Mills," reported the agreement of the committee to the bill, without amendment; and the bill was ordered to be read the third time to-day.

Mr. ROOT, from the Committee of Claims, to whom was committed the bill from the Senate, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli," reported the same, with an amendment; which was read, and, together with the bill, committed to a Committee of the Whole to day.

On motion of Mr. JOHNSON, the select committee were discharged from the further consideration of the bills to incorporate the Farmers' Bank of Alexandria, and to incorporate the Union Bank of Georgetown; and they were committed to the Committee of the Whole on the bill "to incorporate the Bank of Potomac."

On motion of Mr. QUINCY, the Committee of the Whole were discharged from the consideration of the bill authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex Canal, and it was committed to the Committee of the Whole on the bill from the Senate, entitled "An act providing for the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company."

The House resolved itself into a Committee of the Whole on the bill for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered to the United States in the war with Tripoli," and the amendment reported thereto by the Committee of Claims. The bill and amendment was agreed

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*District Banks—Encouragement of Manufactures.*

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to, and concurred in by the House, and ordered to a third reading to-morrow.

The House resolved itself into a Committee of the Whole on the bill providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

#### BANKS IN THE DISTRICT OF COLUMBIA.

Mr. CHEVES, from the select committee to whom were committed the several bills from the Senate to incorporate the Bank of Washington, to incorporate the Farmers' Bank of Alexandria, and to incorporate the Union Bank of Georgetown, made a further report, in part, of the agreement of the committee to the first mentioned bill, with amendments; which were read, and, together with the bill, committed to the Committee of the Whole on the bill from the Senate "to incorporate the Bank of Potomac."

The report is as follows:

The committee, to whom was referred sundry bills to incorporate sundry banks in the District of Columbia, having already reported in part, beg leave further to report:

That, in their opinion, the bills referred to them would authorize the establishment of a banking capital, which, with the banks already incorporated, would exceed what is required by the present state of the commerce, the population, the real capital, and the other reasonable exigencies of the District.

It is not, in the opinion of the committee, practicable, by the mere institution of banking establishments, to add to the wealth of the community, or to the utility, though it may increase the quantity of the circulating medium. On the contrary, they believe that a superabundance of paper circulation may, by destroying its credit and value, defeat its own end, while it will tend greatly, and almost entirely, to remove the circulating specie of the country. A paper circulation, within reasonable limits, is probably a great benefit; but, if unrestrained, or, what is worse, encouraged to transcend those limits, it will more probably become a great evil; and this evil it is the duty of legislative bodies, at least not to invite; for it will not be confined to those who, as the projectors of these institutions, are willing to adventure their property therein, but will be visited on those unsuspecting and unwary members of society who, with propriety, on such a subject, rely on a legislative guardianship.

The allegations, that there is abundance of capital, and that there is a want of capital, both of which have been alleged in favor of these institutions, equally prove, that they should be limited. If there be a want of real capital, there is no basis for an excess of this artificial capital; they are relative, and ought to be proportional to each other. The committee, pursuing and adopting these principles, but with some latitude, as they suppose, in favor of the applicants, have already reported the bill to incorporate the Bank of Potomac, and now beg leave to report, with sundry amendments, the bill to incorporate the Bank of Washington. The first they selected, because it had been some years in successful operation, and was, in other respects, unexceptionable; and the last because there is no other like institution in the City of Washington. If these shall be incorporated, there will be in

#### *The town of Alexandria.*

The Bank of Alexandria, with a capital of \$500,000.

The Bank of Potomac, with a capital of \$500,000.

#### *In Georgetown.*

The Bank of Columbia, with a capital of \$1,000,000.

#### *In Washington.*

The Bank of Washington, with a capital of \$500,000.

Forming a banking capital for the District of Columbia, of \$2,500,000, which the committee think abundantly sufficient, and as much as it will, at present, be prudent or safe to authorize.

#### ENCOURAGEMENT TO MANUFACTURERS.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred that part of the President's Message at the commencement of the session which relates to the encouragement of American manufactures and navigation, made a report; which was read, and referred to a Committee of the Whole to-morrow.

The report is as follows:

The Committee of Commerce and Manufactures, always disposed to encourage and extend the industry, agriculture, and manufactures, of the United States, beg leave to suggest the propriety and expediency of subjecting the articles specified in the subjoined resolution, to additional duties. They beg leave to refer to a report on this subject, made the 21st of June, 1809, and solicit that it may be taken as part of this.

*Resolved*, That additional duties ought to be laid on the following articles imported into the United States, to wit:

On ready-made clothing and millinery, — ad valorem:

On cotton manufactures from beyond the Cape of Good Hope, — ad valorem;

On lead shot, —.

*Resolved*, That zinc, alias spelter, be hereafter admitted free of duty.

"Report of the Committee of Commerce and Manufactures, to whom was referred so much of the Message of the President of the United States as relates to the revision of our commercial laws, for the purpose of protecting and fostering the manufactures of the United States, and also the petitions and memorials of sundry manufacturers of hats, of cotton goods, of hemp into linen, of shot, of woollen cloths, and of salt, made to the House of Representatives, June 21, 1809.

The committee are fully impressed with a conviction of the importance, difficulty, and delicacy, of the subject submitted. It is a mine which even the industry and laborious researches of philosophers cannot exhaust. The committee are apprized, that on this subject men of great science and experience have supported, and do still support, diversity of opinions. With such impressions, they cannot approach it without circumspection. On a review of the reports made on the policy of fostering and protecting our manufactures, the committee find that the plan therein recommended and pursued has received the support of Congress; and likewise the countenance of the nation, if silence on, and long acquiescence in that plan, can authorize them to infer it. In giving to our manufactures the support necessary to withstand foreign competition, skill, and capital, the committee have on all occasions endeavored to avoid

the danger of fastening on the community oppressive monopolies. For a manifestation of the solicitude which they have at all times felt, and the caution which has always presided over their deliberations on this interesting subject, they beg leave to refer to the following reports, which they solicit may be taken as parts of the present:

Report on the memorial and petitions of sundry manufacturers of gunpowder, &c.; 10th February, 1802. 1st vol. of Reports, page 217.

Report on the petition of sundry manufacturers of cordage, &c.; 18th February, 1802, *Ibid.* page 219.

Report on the petition of sundry manufacturers of paper, &c.; 8th March, 1802, page 226.

Report on the petition and memorials of sundry calico printers and dyers, &c.; 24th January, 1804, page 394.

Report on the petition of the president and directors of the New York Dutchess County Slate Companies, 15th of November, 1804, p. 491.

Report, on the memorial and petition of the Philadelphia Typographical Society; 22d January, 1805, page 253.

Report on the petitions and memorials of Paul and Joseph W. Revere, and sundry coppersmiths; 21st January, 1808, 2d vol. page 121.

The like spirit which dictated those reports maintains, without any diminution, its influence over the committee, and represses every disposition to depart from restraints, the observance of which becomes indispensable, if the public good be the sole object in view.

The shortness of the present session, and the want of materials, preclude the committee from giving this subject a full investigation. Though the committee have to regret that they are prevented from going into a minute discussion of the advantage that would result from a judicious encouragement of manufactures, yet they cannot refrain from expressing an opinion that additional duties at this time may be laid with advantage on the importation of certain articles. It must be obvious to every person, on the slightest attention, that the citizens of the United States possess sufficient ingenuity and skill to make up all the articles of wearing apparel and millinery that may be wanting for use. It is no less clear that shot, over and above our own consumption, can be supplied, and that other manufactures in which lead is the article of chief value, have progressed so rapidly as to deserve the fostering care of Government. The importation of cotton manufactures from the Cape of Good Hope interferes not only with our own cotton manufactures, but also comes into competition with fabrics imported from Europe, made of the cotton of the United States. Manufactories are in operation for supplying, and preparations are in great forwardness for increasing the supply of coarse cotton manufactures. If some encouragement be given to establishments of this description, the probability is, that a quantity of these manufactures, equal to the demand, may be supplied. Bedticking, of a quality superior to that which is imported, can be had in abundance.

The use of salt as a necessary of life cannot be dispensed with. To keep in the market a quantity commensurate to the consumption of the nation is certainly an object of moment. In a time of peace importations of this article are abundant, and the price low; but should the United States at any time be forced into war by a concurrence of inauspicious events—and they have no power to prevent it—the scarcity

consequent on such a state of things would greatly increase the price of this article, and the pressure would of course be sensibly and severely felt by that portion of the community least capable of bearing it. The scarcity and high price of salt during the American war, produced no little distress. The apprehension lately entertained, that a deficiency in the necessary supply of this article would be the consequence of an interdiction of commerce with the belligerent nations of Europe and their dependencies, gave rise to some objections, not easily removed, against the adoption of that measure. To prevent effectually a want of salt, on the occurrence of any event, is certainly an object deserving the serious attention of Congress. Assurances are made with confidence that a supply of this article can be furnished by our own manufactories, equal to the demand, if encouragement be given by a moderate duty on imported salt. A nation erects a solid basis for the support and maintenance of its independence and prosperity, whose policy is to draw from its native sources all articles of the first necessity. As the encouragement sought can be given, it is respectfully submitted to the consideration of the House, whether the manufacture of salt is not, in a national point of view, an object of primary importance, and highly deserving its patronage.

The committee, with great deference, submit the following resolutions:

*Resolved*, That additional duties ought to be laid on the following articles imported into the United States, viz:

On ready-made clothing and millinery, two and one-half per cent ad valorem.

On cotton manufactures from beyond the Cape of Good Hope, on bedticking and on corduroys, and fustians, two and one-half per centum ad valorem—and on shot and other manufactures in which lead is the article of chief value, one-half cent per pound.

*Resolved*, That a duty of eight cents per bushel on imported salt, would give encouragement to the manufacture of that article in the United States."

#### AMENDMENT TO THE CONSTITUTION.

The House resumed the consideration of the unfinished business of yesterday.

The SPEAKER having decided that a vote of two-thirds was required to pass the resolution to a third reading, as well as on its final passage,

Mr. RANDOLPH appealed from the decision of the Speaker.

Much desultory discussion took place on this appeal. On the one hand it was said that a question on engrossment could not determine the sense of the House on the final passage of the resolution; and that, as an agreement by a majority of two-thirds to have the resolution engrossed would not have rendered another vote by two-thirds unnecessary, reason and analogy would dispense with anything more than a bare majority on the question of engrossment. On the other hand it was contended, that as, by the Constitution, the majority on a question to amend was changed to a vote of two-thirds; and as a vote of a bare majority, in ordinary cases, against a bill's going to a third reading would destroy the bill, so in this case a vote of a majority (as prescribed and defined by the Constitution for this particular case) would have the same effect, and, consequently,



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that a vote of two-thirds against the resolution's going to a third reading would totally destroy it.

The Speaker's decision was confirmed by the House—yeas 61, nays 59, as follows:

**YEAS**—Joseph Allen, Willis Alston, jun., Adam Boyd, Robert Brown, William Butler, William Chamberlin, Matthew Clay, Richard Cutts, John Davenport, jun., John Dawson, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Barent Gardener, Gideon Gardner, David S. Garland, Charles Goldsborough, Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Richard Jackson, jun., Robert Jenkins, Richard M. Johnson, William Kennedy, Herman Knickerbacker, Robert Le Roy Livingston, John Love, Vincent Matthews, Alexander McKim, William McKinley, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Porter, Peter B. Porter, Elisha R. Potter, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, John Smilie, John Smith, Henry Southard, John Thompson, Uri Tracy, Charles Turner, jun., Robert Weakley, James Wilson, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Lemuel J. Alston, William T. Barry, Burwell Bassett, William W. Bibb, Daniel Blaisdell, James Breckenridge, William A. Burwell, Joseph Calhoun, John Campbell, John C. Chamberlain, Langdon Cheves, Martin Chittenden, James Cochran, William Crawford, Joseph Desha, William Ely, James Emott, Thomas Gholson, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Walter Jones, Philip B. Key, Joseph Lewis, jun., Aaron Lyle, Nathaniel Macon, Archibald McBryde, Pleasant M. Miller, Samuel L. Mitchell, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Josiah Quincy, John Randolph, John Rea of Pennsylvania, Samuel Ringgold, John Ross, Daniel Sheffey, Dennis Smelt, George Smith, Samuel Smith, Richard Stanford, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Robert Whitehill, and Ezekiel Whitman.

And so the said proposition of amendment to the Constitution of the United States was rejected.

The bill from the Senate, entitled "An act for the relief of William Mills," was read the third time, and passed.

#### CHESAPEAKE AND DELAWARE CANAL.

The House resolved itself into a Committee of the Whole on the bill for the sale and grant of a certain quantity of land to the Chesapeake and Delaware Canal Company.

Mr. EPPES moved to strike out the first section of the bill, and spoke in support of the motion.

Mr. VARNUM spoke in favor of the motion.

Mr. VAN DYKE replied to Mr. EPPES.

The Committee rose without coming to a decision; and the House adjourned.

WEDNESDAY, February 6.

On motion of Mr. KENNEDY, the Committee of Commerce and Manufactures were directed to inquire into the expediency of establishing, by

law, an uniform mode of gauging in the several offices of the customs throughout the United States.

Mr. EPPES, from the Committee of Ways and Means, presented a bill for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. EPPES, from the same committee, also presented a bill authorizing a loan of money for a sum not exceeding —; which was read twice, and committed to a Committee of the Whole on Tuesday next.

Mr. CHEVES presented a petition of John Macnamara, of Charleston, South Carolina, stating that his vessel brought into Charleston, in October, one thousand eight hundred and nine, a number of French families, refugees from Cuba, together with their slaves, who had been forcibly expelled from that Island; in consequence of which, his vessel and cargo had been condemned for a violation of an act which prohibits the importation of slaves, and praying such relief in the premises as may appear just and proper.—Referred to the Committee of Commerce and Manufactures.

An engrossed bill providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory, was read the third time, and passed.

An engrossed bill for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory, was read the third time, and passed.

The bill from the Senate, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli," as amended, was read the third time, when Mr. BASSETT moved that the said bill be recommitted to a Committee of the whole House; and the question thereon being taken, it was determined in the negative.

The bill was then passed, as amended.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act providing for the final adjustment of claims to land in the Territories of Orleans and Louisiana," with amendments; to which they desire the concurrence of this House.

Mr. MORROW, from the Committee on the Public Lands, made a report on the petition of the inhabitants of the third township, in the eighth range, in the county of Washington, Ohio, referred the twenty-eighth ultimo; which was read, and the resolution therein contained concurred in by the House, as follows:

*Resolved*, That the petitioners have leave to withdraw their petition.

Mr. LEWIS, from the committee appointed the nineteenth ultimo, presented a bill making further appropriations for completing the Capitol, and for other purposes; which was read twice, and committed to a Committee of the Whole on Monday next.

## ADDITIONAL DUTIES.

Mr. EPES laid before the House a letter from the Secretary of the Treasury to the Committee of Ways and Means, respecting the imposition of additional duties on importations of foreign goods.

The following is the letter:

WASHINGTON, January 18, 1811.

SIR: I am instructed by the Committee of Ways and Means to ask for such information as may be in possession of the Treasury Department, on the following points, viz:

1. What diminution of revenue will be produced by the exclusion of articles, the growth, produce, or manufacture, of Great Britain, her colonies, dependencies, &c.

2. What particular articles, or classes of articles, will bear an increase of the present duties, and to what extent, taking into view the security of the revenue, and the sum to be produced?

And any other information which may tend to show whether it is more expedient to increase the per cent. on articles paying *ad valorem* and specific duties generally, or whether the public interest may be promoted, and the deficiency of revenue supplied by an increase of duty on particular selected articles, or particular classes of articles.

With respect and esteem, I have the honor to be, your most obedient servant,

JOHN W. EPES.

TREASURY DEPARTMENT, Jan. 28, 1811.

SIR: In answer to your inquiries respecting the diminution of revenue, which must result from the exclusion of articles of British produce or manufactures, I beg leave to refer you to a report made to the House of Representatives, on the 28th February, 1806, and which, together with the statements annexed to it, gives a detailed view of the importations from the British dominions, and from all other countries, for the years 1802, 1803, and 1804. More reliance may be placed, as to any general result, on the statements for those years, than on those for any subsequent period. There was a very extraordinary increase of commerce during the years 1805 and 1807, but although the amount of importations was much larger, the proportion from the different countries had not been materially altered. From the last three years no correct inferences can be drawn. The time requisite to prepare similar statements for the last six years would also delay an answer; and the annual reports of importations in American and foreign vessels, will furnish such additional facts for any one year as may be wanted.

It appears from that report, (page 9,) that the net duties (after deducting drawbacks) on merchandise imported from the British dominions, and from all other countries, might be established as follows:

*British dominions. All other countries.*

On merchandise paying duties <i>ad valorem</i> , including the additional duties called the Mediterranean fund - -	\$4,257,000	1,238,000
On all other articles, deducting salt, the duty on which is now repealed - -	1,629,000	4,741,000
	<u>5,886,000</u>	<u>5,979,000</u>

At that time, however, in the years 1802 and 1804, non-importation from Great Britain would not have diminished the revenue to that extent, as the continent of Europe being then open to the United States, a great number of articles usually imported from Great Britain would have been supplied by other countries. A considerable diminution must take place in relation to all the articles which cannot be thus supplied, or which may now be manufactured in the United States. And it was principally on account of the uncertain state of commerce with the rest of the world, that in the annual report of the 10th December last, I stated that "the probable defalcation in the revenue could not, for obvious reasons, be at this time estimated with any degree of precision."

In relation to the other inquiry of the committee, it appears to me, that the discrimination between the dutiable articles would at this time be inexpedient. Those which will certainly continue to be imported, particularly spirits, wines, teas, sugar, and coffee, are for that reason, those on which an increase of duty would be most productive. But that consideration alone does not seem sufficient to recommend a higher rate of increase on those than on other articles; and I think that a general and equal increase on the rates of duties now paid, is, for the present, the most eligible mode.

I have the honor to be, &c.

ALBERT GALLATIN.

Hon. JOHN W. EPES,

Chairman Committee of Ways and Means.

## DEPOSITES IN STATE BANKS.

Mr. POTTER said that at a time when they were introducing bills for the purpose of borrowing money and for laying additional duties, and thereby increasing the taxes on their constituents, he thought they ought to make the best of the resources already in our power. The stockholders of the United States' Bank (said he) have offered one million two hundred and fifty thousand dollars for the renewal of their charter; and it is believed they would give considerably more, if they could have a charter unencumbered with other conditions. This sum of money they would give the United States for a charter, for the advantage of the Government deposits, and for the universal credit and extensive circulation it gives to its paper, which is receivable for all debts due the United States. As there now appears no probability of the extension of that charter, and as the deposits will be soon withdrawn, and in all probability placed in State banks, I am not willing they should have that privilege without paying an equivalent. It appears to me that those interested in the State banks, that expect to be benefited by the deposit of the money of the United States, in their opposition to the renewal of the charter of the Bank of the United States, have manifested a strange kind of patriotism; and, as it appears to me, of the French kind; which is a love of money more than a love of country. I am not willing they should have this money for nothing, when it is worth at least six per cent, to those from whom it is collected. The State banks that may have those deposits will not only derive very great advantages from them, by enabling them to increase their dis-

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counts and dividends; but it will give to their bills a more extensive circulation. This money is certainly worth three per cent. to the State banks. If then our deposits should be only three millions, at that rate the interest would be ninety thousand dollars per annum, and if we should release our commerce from the operation of our own restrictions, it might soon amount to ten millions, which would give an interest of three hundred thousand dollars, a sum worth saving. I find a considerable sum of this money in the bank at Pittsburg, and from that neighborhood we have had a remonstrance against the renewal of the charter of the United States' Bank. Another considerable sum is in two banks in the State of Rhode Island, at present amounting to seventy-eight thousand two hundred and twenty six dollars. This is worth three per cent. to them, and I will give that interest for it with the same advantages and indulgences that they have had, and give unquestionable security for it. My object is to provide by law for the deposit of this money, by giving it to those banks that will give the Government the most for that privilege, and afford ample security for the same. This will prevent the Secretary of the Treasury from having it in his power to give exclusive advantages to certain banks, and will relieve him from part of his responsibility and from the charge of partiality. And for that purpose I beg leave to submit the following resolution, which will give the banks of all parties an opportunity to compete for this privilege; and they that will give the most for it will have it, and the nation be benefited by the money:

*Resolved*, That a committee be appointed to inquire into the expediency of providing and directing by law that the deposits of the moneys of the United States be made in such of the State banks as shall pay the most for that privilege, and comply with such terms and conditions as may be necessary to secure any moneys which may be placed in the same.

Mr. EPPES was opposed to the principle of this resolution. He thought it improper that the deposits of the public money should be set up to the highest bidder—the subject was already generally referred to the Committee of Ways and Means, or he would not object to a resolution for inquiry. Mr. E. stated the provision of the law on the subject of deposits.

Mr. LOVE hoped the resolution would pass.

At the suggestion of Mr. GARDENIER the resolution was adopted, and referred to the Committee of Ways and Means.

### COMMERCIAL INTERCOURSE.

The House went into Committee of the Whole on the following bill reported by the Committee of Foreign Relations:

A Bill supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

*Be it enacted, &c.,* That no vessel owned wholly by a citizen or citizens of the United States, which shall have departed from a British port prior to the second

day of February, one thousand eight hundred and eleven, and no merchandise owned wholly by a citizen or citizens of the United States, imported in such vessel, shall be liable to seizure or forfeiture, on account of any infraction or presumed infraction of the provisions of the act to which this act is a supplement.

Mr. EMOTT moved to amend the same by striking out the words in *italic*, and to insert in their place "or merchandise." The bill, as amended, would read as follows:

"That no vessel or merchandise shall be liable to seizure or forfeiture on account of any infraction, or presumed infraction, of the provisions of the act to which this act is a supplement."

Mr. EMOTT.—Mr. Chairman: As the bill which is now on your table is calculated to relieve our merchants in part from the restrictive system, which has again been attempted to be put in operation, I so far approve of it; but as it does not appear to me to go far enough, I rise for the purpose of moving an amendment, which, if adopted, will once more give us a clear deck; and while I am up, the Committee will permit me, as concisely as the nature of the subject will admit, to assign the reasons which induce me to propose the amendment.

By the law of the first of May last, the President was authorized, in case either of the great belligerents, before the third of March, revoked her anti-neutral edicts, to proclaim the same, and if the other did not in three months also revoke, a non-intercourse with her was to follow. On the second day of November, the President had proclaimed, as a fact, that France had made the necessary revocation; and it follows, if he was correct as to the fact, that on the second day of this month the non-intercourse went into operation against Great Britain.

As many formerly, and more latterly, have doubted as to the fact thus proclaimed, it becomes, sir, a duty which we owe to ourselves and to the people, to inquire into its existence; for if it be true that no such repeal, as was contemplated by the law, has taken place; if indeed the President has been deceived, or was mistaken, we cannot too soon make it known, and relieve the country from the vexation and embarrassment which must result from the present state of things.

If, sir, additional motives were necessary, we may find them in the bills which have this morning been introduced into the House by the Chairman of the Committee of Ways and Means, at the instance of the Secretary of the Treasury, one of which goes to lay large additional duties, and the other to authorize a loan. The reasons assigned by the Secretary for this new and heavy tax on our citizens are, that as the greater part of our duties on imports are collected on goods coming from Great Britain and her colonies, and as those duties will cease with the revival of the non-importation, it becomes necessary, in order to prevent a defalcation in the revenue, to tax the production of other countries much beyond the present rate. On this presumed defalcation, too, in some degree depends the proposition for a loan, or, if a loan be necessary, the amount of

it. In this point of view, it becomes highly important to ascertain whether the non-intercourse has gone into operation; for if it has not, I trust we shall not proceed to give form and shape to the recommendation of the Secretary, that we shall not burden the country with new taxes, or subject it to large loans.

In the commencement of this inquiry, Mr. Chairman, we naturally ask ourselves, what edicts are to be revoked, and how are they to be revoked? It is not material to extend this inquiry to Great Britain, as we know of no revocation on her part, and, under all circumstances, we have not, I fear, much reason to believe that there will be such revocation. But it may be well to notice here something which has the appearance of inconsistency, on the part of our Executive, towards that Government.

The non-intercourse law of March, 1809, contains a provision, that "in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States," the President should declare the same by proclamation, and the non-intercourse was then to cease as to the nation revoking. It was under this law, and in consequence of the power so given to the President, that the celebrated, though ill-fated arrangement, was made between the Executive and the British Minister, Mr. Erskine. Now, sir, by referring to this arrangement, you will find, that on April 18, Mr. Erskine proposed to Secretary Smith the revocation of the Orders in Council of January and November, 1807, as a compliance on the part of Great Britain with the terms of the act of March; and our Secretary, on the same day, declaring that the withdrawing of such orders would be deemed satisfactory by the President, the arrangement was completed on the 19th, and a proclamation accordingly issued on the ground, and assuming the fact, that the British edicts had ceased to violate our neutral commerce, and again opening the intercourse between the two countries after the 10th of June.

This arrangement, and the short and hasty correspondence connected with it, you will recollect, sir, were presented to Congress with the Message, at the opening of the Summer session of 1809, and we then passed a law, the object of which was to ratify and to carry into effect the arrangement. Here, then, we have an explicit opinion from both the Executive and the Legislature, that the only British orders which came within the spirit and intent of the law of March, were those of January and November, 1807, and that, when those orders were revoked, the edicts of Great Britain ceased to violate the commerce of the United States.

I pray you now, Mr. Chairman, to turn with me to the law of May last; you will there find the precise phraseology of the act of March: "In case either Great Britain or France shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States," the President is to make known the fact by proclamation. The authority given

to the President is in both cases the same, and it was to have been presumed that it would have been exercised on the same terms. But, sir, it will be found, on referring to the papers that, under the act of May, the Executive made a further requisition. The revocation of the Orders in Council of January and November was not to satisfy us, but the blockade of the year preceding was to be also annulled.

In the letter from Secretary Smith to our Minister at London, of the 5th of July, 1810, and which enclosed a copy of the law of May, it is said, "that in explaining the extent of the repeal which is required on the British side, Mr. Pinkney will let it be distinctly understood, that it must necessarily include an annulment of the blockade of 1806;" and our Minister, accordingly, in his letter to Lord Wellesley, of the 21st of September, tells him it is his duty to state "that an annulment of the blockade of May, 1806, is considered by the President to be as indispensable, in the view of the act, as the revocation of the British Orders in Council." Nay, so far has the President gone in this particular, as to give the French Government a pledge that this will be required on the part of Great Britain. In the letter from Secretary Smith to General Armstrong, of the 5th of July, 1810, the latter is authorized, if it should be found necessary, to "let it be understood that a repeal of the illegal blockades of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain."

It is not my intention, at this time, to enter into a discussion on the subject of blockades, nor am I to be understood as giving countenance to the system of paper blockades, whether that system proceeds from or is attempted to be enforced by England or by France; but, sir, I have gone into this examination to show that the President has acted differently under two laws which ought to have had the same practical construction, because the terms used in them were alike; that under the law of May, 1810, he added a condition to a settlement with Great Britain, which he did not require under the law of March, 1809; and why this difference?

Will it be said, that when the arrangement was made with Mr. Erskine, the President had no knowledge of the blockading orders of May, 1806? Not so, sir. By recurring to a report made by Mr. Madison, as Secretary of State, in December, 1808, of belligerent decrees and orders affecting neutral commerce, you will find this very blockade; and certainly what he knew as Secretary in December, he must have known as President in the April following. Shall I be told the President had discovered that the blockade had been "avowed to be comprehended in, and identified with, the Orders in Council?" I fear this will not be a satisfactory answer. For, in this case, if the Orders in Council are rescinded, the connexion between them and the blockade will then stand as it was supposed by the Executive to stand when the arrangement was entered into.

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Persons, Mr. Chairman, more prone to jealousy than myself, and who are disposed to find fault with the late Executive projects, may perhaps point to that passage in the letter from Secretary Smith to Mr. Pinkney, of the 22d of May, 1810, in which it is said, that the President has read, with surprise and regret, the reply of Lord Wellesley to the note requiring explanations with respect to the blockade of France, which "evinces an inflexible determination to persevere in the system of blockade," as affording a reason for this added condition: they may say that it was thrust in when our Administration were satisfied that it would not be acceded to by the British, and for the purpose of preventing an accommodation with, and keeping up the irritation against, that nation. But while, for myself, I disclaim this inference, I must confess that I am at a loss to assign a sufficient motive for the difference in the two cases.

As to France, sir, what were the edicts to be revoked, and how revoked? I shall have occasion, before I sit down, to notice the Berlin and Milan decrees. But were there not other decrees?

We have before us the Rambouillet decree, with a date of the 23d of March, 1810, which declares that "all vessels navigating under the flag of the United States, or possessed in whole or in part by a citizen or subject of that Power, which, counting from the 20th of May, 1809, have entered, or shall enter into the ports of our Empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund." Thus embracing almost the whole of continental Europe; for, with the exception of the Russian ports on the Baltic, and two or three places in the European peninsula, every port frequented by the Americans belonged either to the Empire of France, to the colonies of that Empire, or to countries occupied by the forces of the Empire. The seizures under this decree were consequently great and distressing to our merchants.

This decree purports to be an act of reprisal on this country, and for what cause? Not for any act of hostility by us; not for any seizures or confiscations of French vessels or French property under the authority, or within the limits of this Government. No, sir, a pretence of this kind appeared too absurd to be inserted even in a French decree. It is true that General Armstrong, in his letter to Secretary Smith, of the 10th of September, 1810, communicates a verbal explanation which accompanied the last letter of the French Minister: "If you confiscate French property under the law of non-intercourse, they will confiscate your property under their decree of Rambouillet." Ay, sir, and they have given a practical explanation that they would confiscate their property under the decree, although we did not confiscate their property under the non-intercourse law. Look at the decree itself, and you will find the motive, or rather the pretext for this act of reprisal. It is grounded on

the passing of the act of the 1st of March, 1809, and it is grounded on that alone.

Thus, because we deemed it advisable to pass a law which we supposed was a mere municipal regulation, inasmuch as it related to our own citizens, or our own territories; a law, which, according to its letter, applied equally to both belligerents, and which, as it was not to commence its operation until the 20th of May, contained in itself a notice sufficient to prevent any injury to French subjects; for this cause, and for this alone, the Emperor adopts, as an act of reprisal, a decree which subjects to seizure and confiscation, not only American property which should reach the Continent after notice of the decree, or even after its date, but property which arrived there at any time for the preceding twelve months. I will not stop to inquire what would and what ought to have been the feelings of the Administration and of the country, if such an outrage had been committed by England for such a cause. But, sir, if the French Government is allowed to have in the act of March an excuse for reprisal, we had better discontinue making laws altogether; for it is difficult to find in our statute book a law less hostile to France, or more within the right of an independent Government to enact.

To see the true character of this decree, we must approach it a little nearer; and with the letters of the Duke of Cadore in my hand—those letters, sir, which have occasioned our present embarrassments—I am strangely deceived if this proceeding of the French Government does not appear to partake of the nature of an offence which, as respects individuals, is called swindling. It is a taking of property under false pretences.

In the letter from the French Minister to General Armstrong, of the 5th of August, 1810, we find the French Government attempting to justify the issuing of the Rambouillet decree at the time it did, because it, until "very lately," had no knowledge of the non-intercourse law. "The act of the 1st of March has raised the embargo and substituted for it a measure the most injurious to the interests of France. This act, of which the Emperor knew nothing, until very lately, interdicted to French vessels the commerce of France. Reprisal was a right, and commanded by the dignity of France." Permit me, sir, to recall to your recollection a fact, that this decree, although it is dated the 23d of March, was not issued until the 14th of May, 1810, and to refer you, for the evidence of this fact, to the letter from General Armstrong to Mr. Smith, of the 24th of May, in which the General states, that "on the 14th instant was published here (at Paris) a decree of the Emperor, dated at Rambouillet on the 23d of March, and that several of our ships and cargoes, with regard to which compromises have been made under the sanction of the Council of Prizes, have been seized again to satisfy the provisions of the new decree."

From the date of our law, the 1st of March,

1809, until the time of publishing the decree, the 14th of May, 1810, we have nearly fifteen months, and yet the Emperor, until lately, "very lately," knew nothing of the law. What, sir! was he, during all this time, so totally inattentive to the affairs of this country, as not by himself, or his agents, to peruse our public journals, containing the law? Had he never, do you believe, heard of the arrangement of Mr. Erskine under this very act? Did his Minister, in this country, and his host of Consuls and Agents, omit, during all this time, to send him this obnoxious statute? But, we are not left to inference on this subject; a slight review of our public documents will place this pretence in its true light.

General Armstrong, in a note to the Duke of Cadore, which followed the letter of the 5th of August, tells him that the act of March, and all other acts of this Government, which interested France, had been communicated by him officially and promptly, and informs his Excellency, that he "can at any time ascertain the correctness of this statement by referring to the archives of his own department." In a letter from the General to the French Minister of the 10th of March, 1810, it is stated, that the law "was first communicated to His Majesty in June or July last, (1809), and certainly did not then excite any suspicion of feeling unfriendly to the American Government." Far from this, its communication "was immediately followed by overtures of accommodation." But, more direct still: On the 15th of March, 1809, a copy of the law of the 1st of March, was transmitted by Mr. Smith to our Minister at Paris, and we have a copy of his letter to Count Champagny, of the 29th of April, 1809, in which he states that he has the honor of presenting to his Excellency a copy of the law of March, and presses it upon the consideration of the French Government. In addition to all this, we have the letter from Count Champagny, the modern Duke of Cadore himself, to General Armstrong, of the 22d of August, 1809, in which, speaking of the measures of this country, we perceive this passage: "The embargo has been raised, a system of exclusion has been substituted for it." Thus, then, it appears conclusively, that the French Government had an official knowledge of the act of March as early as April, 1809, a full twelvemonth before the decree; and if the testimony of our Minister is to be received, (and is there any one who does not give it full credit?) the law was not viewed as a hostile act, or one requiring reprisal.

Allow me now, Mr. Chairman, to present you with another view of this decree. The Duke of Cadore, in his letter of the 5th of August, 1810, says: "Now Congress retrace their steps; they revoke the act of the 1st of March; the ports of America are opened to French commerce, and France is no longer interdicted to the Americans." And in his letter of the 7th of September, he uses these expressions: "His Majesty has always wished to favor the commerce of the United States. It was not without reluctance that he used reprisals towards the Americans, while he

saw that Congress had ordered the confiscation of all French vessels which might arrive in the United States." "As soon as His Majesty was informed of this hostile act, he felt that the honor of France, involved in this point, could not be cleansed but by a declaration of war." Now "the American vessels, which shall arrive in France, will not be subjected to confiscation, because the act of Congress, which had served as a motive to our reprisals, is repealed." From this exposition of the views of the French Government, handed to us by the Minister of Exterior Relations, we perceive that he places the Rambouillet decree entirely to the account of the non-intercourse law of March; and from the course of reasoning used by him, it seems to be admitted that the decree, and the seizures under it, could not be justified, but while the obnoxious law was in force.

But we here again meet with another of the mistakes of this most just Government, which is so jealous of its honor and so friendly to our commerce. The fact happens to be that the law never was repealed. By its own limitation it expired with the then session of Congress, and, of course, went out of existence on the 28th of June, 1809. Thus this poor law, which is now brought up in judgment against us, had quietly descended to the tomb of the Capulets almost a year before the Emperor and King thought it consistent with his interest, or for the honor of his empire, to commence his measures of retaliation. The limitation clause could not have escaped the attention of His Majesty when he read the law; and, I trust, we yet have pride enough to believe that he knows there is an American Congress, and notices the periods of our meeting and departure, if he is careless about our proceedings. When, therefore, Napoleon issued the plundering decree of Rambouillet, he knew that the law, on which he placed his justification, had long since expired. But he knew a further fact, that the law never did affect French vessels. The British navy kept them at home, and we excluded English vessels only. Such was the practical and the only practical operation of our law.

I am aware that the apologists of the Emperor will point to the act of the 1st of June, 1809, as reviving or continuing certain sections of the law of March. Let me not be misunderstood, Mr. Chairman. I do not mean to insinuate that the Emperor has apologists in this House, in this ark of independence and liberty of a great people; but, in whatever place this suggestion shall be offered, it may be answered that the French Government have not noticed the last law in their decree, or in any of their official papers. And it may be further remarked, that the law of June, like that of March, was limited to the end of the next session of Congress, and, of course, ceased its operation on the 1st of May, 1810. As the decree issued on the 14th of May, and the seizures under it were after that time, it would seem, to a man of common understanding, who believes the transactions between nations are, or ought to be, regulated by the rules of honest, plain dealing,

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that the Emperor, when he had knowledge of the fact, would have loosened his hold on our property. And yet we find that, when we approach him on this subject, he laughs us to scorn.

The object which I had in view, in this examination of the Rambouillet decree, was, to mark its true character, to show that this decree emphatically outraged our neutral rights, and that, if it was submitted to by this country, our code of national rights will be found hereafter in the same books with those of the Kingdoms which belong to the Confederation of the Rhine. Our merchants are induced to adventure to France by a prospect of large profits, and by promises of great security if their vessels have not been "denationalized." They take there many a valuable cargo, until the amount of property becomes an object of imperial attention, and then it is seized upon by an irresistible and unrelenting hand, without notice, and upon pretexts void of any foundation. Can a decree, or order, or edict, be pointed out in the long history of our wrongs and our sufferings, which is more strongly marked with injustice, or which more strongly violates our neutral commerce?"

I will not detain the Committee by entering into a particular examination of the French decrees, which, in the commencement of the last year, authorized the seizure of such a number of American vessels at St. Sebastians, at Naples, and in the North of Europe. It would lead me too far into the views and conduct of the French Government towards this country, for the purposes of this discussion. But, sir, in this volume of documents, I see, with emotions which I am sure are in unison with those of the American people, the famous note, signed "Champagny, Duke of Cadore," of the 14th of February last, written to justify those seizures, and, as he says, "that the President may the better know the friendly intentions of France towards the United States, and her favorable dispositions to American commerce," in which we are told that we are "without just political views, without honor, and without energy." And are we so sunk in the estimation of the mighty Conqueror that he thinks it necessary and proper to use this as his official language towards us? Surely, sir, he mistakes the character and the spirit of this people if he believes they are to be broken down, or brought into his views, by insults or threats. As our Government had, a few months before, discharged and disgraced a British Minister for a supposed insult by an insinuation, it was to have been expected that, on this occasion, equal spirit would be shown. But to such as formed corresponding expectations, what will be their feelings when they find that the only Executive notice of the note is found in the letter of Mr. Smith to General Armstrong, of the 5th of June last, in which the Secretary says, that, as the John Adams is daily expected, and as your farther communications by her will better enable me to adapt to the actual state of our affairs with the French Government, the observations proper to be made in relation to the seizure of our property, and to the letter of the Duke

of Cadore, of the 14th of February; it is, by the President, deemed expedient not to make, at this time, any such animadversions."

Let us now see, Mr. Chairman, whether these decrees have been "so revoked or modified as that they ceased to violate the neutral commerce of the United States."

These decrees have two distinct operations, the seizure of our property, and the subsequent sale of that property; and, without attempting to prove a proposition which appears self-evident, I shall take it for granted that, if it was an infringement of our rights to seize the property, it is equally an infringement of our rights to proceed to the confiscation and sale of such property. Nay, sir, if we allow to the French Government the plea of retaliation, the infringement of our rights will commence with the confiscation and sale of our vessels after the cause of retaliation has been removed by us, and known so to be by the Emperor. A revocation or modification of these decrees, so that they should cease to violate our fair commerce, therefore, would look as well to an indemnity for the past as a security for the future; it necessarily includes a restoration of the property already taken, as well as an engagement against future captures. This appears to have been, at one time, the opinion of our Administration; for you will find, by recurring to the letter from Secretary Smith to General Armstrong, of the 5th of June, 1810, which enclosed a copy of the law of May, the determination of our Executive is thus made known: "If, however, the arrangement contemplated by the law should be acceptable to the French Government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused." And in the letter from Mr. Smith to General Armstrong, of the 5th of July, this determination is expressed with added strength: "As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized by the order, or at the instance of the French Government, must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain; such a provision being an indispensable evidence of the just purpose of France towards the United States."

Without asking for the evidence which the President had as to the repeal or modification of these decrees, I now put it to the Committee whether every member of it is not perfectly convinced that if any modification, or suspension, or repeal, has taken place, it goes no farther than to restrain future seizures, leaving the property already seized to take the course of confiscation and sale? Do we not know, that, in the months of October and November, our vessels and merchandise have been brought under the hammer in pursuance of those decrees; and have we not lately seen, in our public journals, a list of some eighteen or twenty ships advertised by the French Government for

sale at Bayonne, on the 5th of December? Nay, sir, the Executive was informed, before he issued his proclamation, by the letter from the Duke of Cadore to General Armstrong, of the 12th of September, 1810, that, "as to the merchandise confiscated, it having been confiscated as a measure of reprisal, the principles of reprisal must be the law in that affair." Words cannot be found which would more satisfactorily "evince an inflexible determination" to retain the property. As the principles of reprisal are to be the law, it follows that a restoration of the property depends on the discretion of the Emperor, and is not to be claimed by us as a matter of right, but of favor. And what have we to propose, according to the principles of reprisal, to obtain the restoration? Is it, that we have suffered the non-intercourse law to expire? Why, sir, this had taken place long before the letter of the Duke of Cadore. Is it a restoration of French property seized under the law of non-intercourse? This cannot take place; because, in truth, there was no such seizures.

We will now examine whether there has been such a revocation of the Berlin and Milan decrees as warranted the proclamation. And here, let me remark that, when the President acted under this law, he was not exercising the treaty-making power. He was the mere agent of the Legislature, and as such agent, he was confined and limited by his letter of attorney, the law. He had not, therefore, as has been asserted, a discretion, nor had he anything to do with considerations of comity or courtesy. He was to ascertain when there was an actual and practical revocation, and then make known the fact; the consequences were left with the Legislature. Indeed, sir, this power to give publicity to a fact might have been committed to one of the Secretaries, or to a clerk in the offices, and if it had, we should have smiled at the suggestion that its exercise depended on considerations of courtesy.

Mr. Chairman, when the proclamation first appeared, my impression was, and such, too, I understood to be the general impression, that the President had some document unknown to the American people. The letter of the Duke of Cadore, of the 5th of August, was already before the public, but it was not credited that on this letter the proclamation had been issued. Since we have received the Message the subject is at rest. It is now known and acknowledged that the President had not, and to this moment has not, any other evidence of a revocation. Now, sir, in this letter, I see neither the form nor the substance of a revocation.

As to form—it is not accurate to say that, in a despotic Government, like that of France, they have no forms. The essential principle in a despotism is, that there should be a power absolute and beyond control, and whose will is law. But this will, to be law, must be known; and the manner in which this will is promulgated, is always, and of necessity, a matter of form. Now, without referring to the organization of the French Government, we need only advert to

known edicts to ascertain the form in which the decrees of the Emperor appear, and, of course, the repeal of his decrees. They always run in the name of the Emperor, and are signed by him. Thus, the Berlin decree, "Napoleon, Emperor of the French and King of Italy;" signed, "Napoleon." The Milan decree, "Napoleon, Emperor of the French, King of Italy, and Protector of the Rhenish Confederation;" signed, "Napoleon." The Rambouillet decree, "Napoleon, &c., &c., &c.," signed, "Napoleon." The Duty decree of the 12th of September last, "Napoleon, Emperor of the French, King of Italy, Protector of the Confederation of the Rhine, and Mediator of the Swiss Confederation;" signed, "Napoleon." I have produced these instances, because they appear in the documents on our tables, and I think I may assume it as a fact, that the French decrees all issue in this form. If a contrary practice has prevailed, in a single case, I may ask for it.

What is the understanding of the French courts and officers, on this subject. I have already presented you with that part of the letter of the Duke of Cadore, of the 5th of August, in which he says, that since Congress have retraced their steps, by revoking the act of the first of March, "France is no longer interdicted to the Americans." Now, sir, if this letter is in the form of a decree, it revokes or modifies the Rambouillet decree equally with those of Berlin and Milan, inasmuch, as long as the former continued in force, France was interdicted to the Americans. And yet we find, in a letter of the Duke of Cadore, of the 7th day of September, our Minister inquiring "Has the decree of His Majesty of the 22d day of March last been recalled?" And General Armstrong, in his letter to Mr. Smith of the 10th of September, remarks, that this inquiry "may appear to have been useless, after the declaration, that American ships which will hereafter arrive in the ports of France shall not be subject to confiscation; but understanding from the Council of Prizes, that until some act be taken which had the effect of recalling, by name, the decree of the 23d of March, they must consider it both as existing and operative, and of course binding upon them," he had presented the subject again.

Here, then, we have the opinion of the French court, most known and most important to us, the Court of Prizes, that the letter of the Duke of Cadore is not in the form of a decree, and has not the force and effect of a decree. In addition to this, we have the act of seizure of the brig *New Orleans Packet*, by the director of the customs at Bordeaux, in December last, under the Berlin and Milan decrees. As the letter of the Duke of Cadore had been published in France prior to this period, no one will believe that if it was in form of an edict of the Empire, the seizure would have been made.

But if the contents of this letter had been embodied in a formal act, would it have amounted to such a revocation or modification of the Berlin and Milan decrees, as that they ceased to violate our neutral commerce?



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I remark, first, that the revocation, if it be one, was a future and not a present revocation. "The decrees of Berlin and Milan are revoked, and, after the first of November, they will cease to have effect." Now, sir, although there is an affected obscurity in this sentence, the intent is most obvious. As long as a law continues in operation, so long it must be unrepealed, and as these decrees were to have effect until the 1st of November, it follows, that on no construction can they be considered as revoked until that period. Indeed, on this point the Duke of Cadore is quite explicit in his letter to General Armstrong of the 7th of September, in which he tells him, that American vessels arriving in France before the first of November, although not liable to confiscation, "will be subjected to all the effects of the Berlin and Milan decrees."

But, again; the revocation, if any, was not only future, but it was also conditional; "it being understood, that in consequence of this declaration, the English shall revoke their Orders in Council and renounce the new principles of blockade, which they have wished to establish, or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English." A condition—a qualification—a restriction. Is it not obvious, from the very terms of the letter, that it contains a condition, that the repeal is a qualified one? The words "it being understood," are not only expressive of this, but they are singularly appropriate. If however, we were inclined to doubt, we must be satisfied by the letter, of the Duke of Cadore to General Armstrong, of September 7th, in which it is said, that the Emperor "repeals his decrees of Berlin and Milan, under the conditions pointed out in my letter to you of the 5th of August."

Our Ministers, General Armstrong and Mr. Pinkney, appear to have puzzled themselves much about this condition, to discover whether it was a condition precedent, or a condition subsequent. To me, sir, the idea of a condition subsequent to a repeal, is rather novel; but it may nevertheless be just. In common understanding, it is believed, that when a law is repealed it is extinct, and if it be so, then its appendage, the condition, would seem to be at an end of course. But in the view which I am about to take of this subject, it is not necessary to settle this point, as it must be conceded, that whether we call the condition a condition precedent, or a condition subsequent, the same consequence will follow: if the condition is not complied with, the decrees must be in force still. Now, sir, it appears to me, that the conditions, attached to this pretended or proposed repeal, are of a nature which have not, and will not be complied with.

First, sir, as to the conditions on the part of England: The English shall revoke their Orders in Council, and renounce the new principles of blockade which they have wished to establish." With respect to the Orders in Council, I have nothing to say either as to their justice or their policy. Heaven knows they have been to us,

from the moment of their inception, sore evils; the causes of great vexation, embarrassment, and losses; and I hope the period is not far distant when we shall be no longer disturbed by them. But, sir, I wish to call your particular attention to the other branch of the condition, that relating to blockades. We have been so long in the practice, and justly in the practice, of complaining of paper blockades, that at the first blush we are induced to believe the condition relates to them, and to them alone. Are these the blockades which are intended? Let the Emperor and King answer for himself. In the official note from Count Champagny to General Armstrong, of the 22d of August, 1809, we have this declaration: "A place is not truly blockaded until it is invested by land and by sea; it is blockaded to prevent it from receiving the succors which might retard its surrender. It is only then that the right of preventing neutral vessels from entering it exists." But we have it under the hand and seal of the Emperor himself, what he means by the "new principles of blockade." In the Berlin decree there is an enumeration of real or pretended interpolations, on the part of Great Britain, in the law of nations; among which we discover these; "that England does not admit the right of nations as universally acknowledged by all civilized people;" "that she extends to ports not fortified, to harbors and mouths of rivers, the right of blockade, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports." And it is declared that "the decree shall be considered as the fundamental law of the Empire, until England has acknowledged that the rights of war are the same on land as at sea"—"and until the right of blockade be restrained to fortified places actually invested by competent forces."

There can be no misunderstanding on this subject. The Emperor offers to give up his Berlin and Milan decrees, if the British will renounce their new system of blockade; and in these very decrees he explains what he means by this new system; that, besides paper blockades, it is the attempt to blockade the mouths of rivers and harbors and ports not fortified. Now, sir, I will admit, if we could prevail on Great Britain and France thus to limit the right of blockade, it would add much to our security at home; for as we have no fortified places, although we may have places with fortifications, it would follow that we should never be subject to a blockade. But is it true that according to the usages of nations this is a novel system, or one now, for the first time, put in use by the British? Or is it believed, that a nation like England, whose effective force for offence and defence is a maritime force, can or ought to subscribe to a system of blockade which confines its exercise and right to "fortified places actually invested?" What would be the effect of such a system in the present war? France has surely not to apprehend an invasion from England; and if any of the commercial places on her extensive coasts are fortified, the fortifications may be dismantled or

destroyed with great safety. As soon as this is done they become "harbors and ports not fortified," and have no longer to apprehend any inconvenience from the pressure of a naval force. Is it not obvious that England will not comply with her part of the condition, and that the Emperor never expected that she would?

As to the conditions on the part of this country—"The United States, conformably to the act you have just communicated, shall cause their rights to be respected." What rights, Mr. Chairman? The right of not being vexed or endangered by paper blockades? Yes, sir, and more; the right of not being interrupted in a commercial intercourse with cities situated on rivers, as Antwerp for instance; or to carry on a free trade with all the Continental ports and harbors not fortified, although the whole British navy may be cruising at the mouth of the river, or in sight of the port. But we have a further declaration of neutral rights which the French Emperor says he will allow when France has a marine proportioned to the extent of her coasts and her population, and which, so long as the British shall continue to be masters of the sea, he insists we shall claim and exercise. Thus, in the note from Count Champagny to General Armstrong, of the 22d of August, 1809, "France admits the principle that the flag covers the merchandise. A merchant vessel, sailing with all the necessary papers from its Government, is a floating colony. To do violence to such a vessel by visits, by searches, and by other acts of an arbitrary authority, is to violate the territory of a colony. This is to infringe on the independence of its Government." In other words, the flag is to protect the property, and search is not to be permitted. I pray you, sir, to bear in mind, that since the formation of this Government, and under every Administration, the right of blockading, by an actual present and efficient force, ports and places not fortified; the right of search, and the principle, that enemy property is not protected by the character of the vessel, has been recognised or conceded.

But how are we to cause these rights to be respected? By putting in force the non-importation law? Suppose the British should not believe themselves excessively injured by this measure; that, in fact, it operated to their advantage, and we are suffered to bring on premature decay and old age, by this political quackery. Would this satisfy the Emperor? No, sir. He would soon tell us that we had not caused our rights to be respected. It is idle to believe that he will deem the non-importation a compliance with his condition; nor, to me, does his language convey this idea. We are to oppose, or declare ourselves against the British, and in the spirit of our law and of his declaration, we are to cause our rights to be respected, not by self-destroying measures, but by actual force and open hostility, if the English nation will not, without it, subscribe to the terms which have been presented to it. Recollect the history of our embargo and former non-intercourse, the propositions made under

them by our Government to the French Government, and how these propositions were received, and you will be satisfied of the nature and extent of the present condition.

And now, let me ask, whether we are prepared for these conditions? Whether we believe in all the rights which the French Emperor condescends to claim for us from the British, although he will not admit them himself? And, whether we are prepared to go to war for them? To me the conditions, both on the part of this country and Great Britain, appear inadmissible. At all events, I think that the President, before he acted on a proposition so loose and general, which admits of so much doubt, and can, by fair construction, be carried to such extravagant lengths, ought to have asked and received explanations and particulars.

But it may be said that the letter of the Duke of Cadore, if not itself a decree, is evidence that there is a rescinding decree. To my mind, Mr. Chairman, it has internal marks to the contrary; but, without troubling the Committee with any further comments on the letter, I observe, that viewing it as a mere matter of evidence, it may be fortified or explained by other evidence. I have already read to you parts of the letters from Secretary Smith to General Armstrong, of the 5th of June and the 5th of July, which declare the determination of the President not to carry the non-intercourse law into effect against England, unless France not only revoked her decrees, but restored our sequestered property. We are to presume that our Minister made known this determination to the French Court, as it was his duty so to do. Now, with this declaration before him, is it to be credited that the Emperor would revoke his decrees, when he was given to understand that the revocation would lead to no result on our part, inasmuch as he did not release our property? Is it not obvious, from this circumstance alone, that the letter is a mere proposition in answer to the one made by our Government, expressive of the views, and stating the terms on which the Emperor would revoke?

Again, sir, we have the letter of Mr. Russell to Secretary Smith, of the 11th of December, 1810, informing our Government that the brig New Orleans Packet had been seized at Bordeaux a few days before, under the Berlin and Milan decrees, by the director of the customs. And we have had communicated to us, by the President, the note from Mr. Russell to the Duke of Cadore, of the 10th of December, stating this seizure to have been made under the decrees, and giving an additional fact, that the case of this vessel was the first which had occurred after the first of November, to which the decrees could be applied. As this seizure was made under the decrees, it shows the impression in France to be, that they still are existing and in force; and the evidence is the stronger, as coming from the custom-house of one of the principal trading towns, where surely the revocation must have been officially known, if it had taken place. I am aware it is said that Mr. Russell must have been misin-

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formed as to the cause of the seizure, or that the custom-house officer mistook his duty. But as to both of these suggestions, I will only remind you of the silence of the French Government. The remonstrance of Mr. Russell was handed to the French Minister on the 10th of December, and the vessel which bore the despatches, brought Paris accounts to the 27th of December, and did not leave France until the 1st of January. If Mr. Russell had any explanation or answer from the French Government, it would have been communicated to us; but he had none. The silence of the French Minister is equal to an express affirmance of the act of the custom-house officer, and is an admission that the decrees have not been revoked.

But, without multiplying proofs, I will content myself with referring the Committee to a French State paper, the report of Champagny, Duke of Cadore, Minister of Foreign Relations, to His Majesty the Emperor and King, dated at Paris, the 3d of December, 1810, as it appears in the *Aurora* of the 1st of this month. In this report we have the following remarkable passages:—"The orders issued by the British Council had overturned the laws of the commerce of the world. England, whose existence is wholly attached to commerce, thus cast disorder among the commerce of nations; she has torn from it every privilege. The decrees of Berlin and Milan repelled these monstrous novelties."—"Sire, as long as England shall persist in her Orders in Council, your Majesty will persist in your decrees. Your Majesty will oppose to the blockade of the coasts the Continental blockade, and to the pillage on the seas, the confiscation of English merchandise upon the Continent. It is my duty to say to your Majesty, your Majesty cannot, henceforth, hope to recall your enemies to more moderate ideas otherwise than by your perseverance in this system."—These passages leave nothing for inference; they are full and explicit. The Berlin and Milan decrees are not only unrevoked, but they will remain so until the English Orders in Council are withdrawn.

Will gentlemen yet say, after this damning proof, that there is not evidence of the existence of the decrees; that on the first day of November they ceased to violate, in practice and in principle, our neutral commerce! If they are not now satisfied, I beg to know what will satisfy them? Are we to wait until His Majesty, in person or by proxy, gives our Administration a formal notice that they have mistaken his intention? Is it according to the modern usages of nations, or the custom of our great and good friend, to give such notice? No, sir, the notice you will receive will be the capture, and if not the condemnation, the keeping of your property; and that notice you already have. It will be strong complaints against the British Orders in Council, and bitter taunts against neutrals for submitting to them; those you also have. It cannot, and it ought not to be concealed, the decrees are not withdrawn. Whether doubts existed when the proclamation

issued, they must now be removed; and we ought to adopt measures to rid the people speedily from the oppressive weight of this incautious act of the Executive.

Mr. Chairman, there remains still one view to be taken of this subject. It is said that we have made a contract with France, which in good faith we are bound to fulfil: that in consideration of a repeal of the French decrees, we have covenanted and agreed with the Emperor to resume the non-importation system with Great Britain, and are not at liberty to vary this assumption, on our part, in any particular. It is not my purpose to examine this curious proposition: but are its advocates aware of its extent? The law of May is without limitation, and if it has fastened itself on Great Britain, there is no provision for taking it off, even if that nation should lay herself at our feet to gain our favor. In the spirit of this new law of contracts, the non-intercourse becomes perpetual, unless the Emperor shall be graciously pleased to release us from our engagement. But, admitting that our hands in any case might be tied, they can only be so when good faith is preserved towards us; the contract surely must be binding on both parties, or on neither. Now, sir, from the papers with which the Executive has furnished us, it appears, that the promise of the Emperor was broken at the very moment when made.

We deem ourselves injured by the Orders in Council; and why? because they restrict our commerce with the Continent. But for that, this country, considered as a neutral country, is not interested in them. To rid ourselves of these orders, we have recourse to a variety of expedients, and finally, settle down in a non-importation with England. But if it should happen that by the regulations of the continental Powers themselves we are deprived of such trade, what interest have we then to oppose ourselves to these orders? Suppose a case: we make a contract with the Emperor which has for its object the removal of the orders and a free commerce with France; but after the contract is made, the Emperor himself interdicts the trade; is the contract still binding? And yet this is precisely our situation. If the English, by their orders and blockades, formerly kept us from the Continent, the French have now taken their place.

Look at the state of your commerce with the Continent under the recent French regulations. General Turreau, in his letter to Mr. Smith, of the 27th of November, 1810, says, that certificates of origin can only be given to American vessels loaded with the produce of the United States, and destined for a port in France. Again, in his letter of the 12th of December, 1810, the General says, that the importation into France of cotton and tobacco, are specially prohibited; but in his letter of December 25th, 1810, he observes, that by his despatches of the 1st of July, 22d and 30th of August, cotton may be imported into France in American vessels, and under certain regulations. And what are these regulations? You will find them, sir, in the French decrees of the 9th

of July, 1810, annexed to his correspondence: "Thirty or forty American vessels may import into France (under license) cotton, fish, oil, dye-wood, salt-fish, cod-fish, hides, and peltry." "They can only depart from Charleston and New York." Thus, then, according to explanations of the French Minister in this country, we are by the Emperor excluded from all the ports of the Continent except France; for we well know that without a certificate of origin, our property would be liable to seizure. We can carry, even to France, but few articles, and those of our own growth, and are thus deprived of a trade in colonial produce, although it may come from countries friendly to the Empire, and have been fairly stamped with an American character. And of the little which we are allowed to take, the greater part must go from privileged places and under French licenses.

But this is not all. At the very time when the Duke of Cadore was writing his smooth but insidious letter of the 5th of August, a decree of duties was prepared and issued, which is virtually a prohibition to carry even by license. On this very fifth day of August, a list of duties was sent to the French custom-houses, by which long staple cotton is put at eighty cents the pound, other cotton sixty cents, and tobacco forty cents. On the 12th of September, 1810, we have another duty decree, by which American potash is charged with about one hundred and twenty-five dollars the ton, codfish two dollars the hundred pounds, and American rice four dollars the hundred. Is it possible for us, under these regulations, to carry on a commerce with the Continent? Surely not. I am aware, that a few privileged ships, furnished with imperial licenses, have made tolerable voyages, and some small number "under license," and by special permission of His Majesty the Emperor and King, may yet succeed; but this is a trade not belonging to us but to France, and let France look to it. And yet, after seeing all this, we are this day seriously debating on the extent of our obligation to the Emperor. We have buckled on the non-importation, and insist on carrying the load, although we are tottering at every step with its oppressive weight, and all this because the Emperor has suffered his Minister to write us a note full of professions which mean nothing, and promises which are not to be performed.

Why, then, sir, suffer the present state of things to exist? Why permit it to be believed for a moment that, for such causes as I have recited, a non-intercourse is in force against Great Britain? Are gentlemen so wedded to the restrictive system, notwithstanding our dear-bought experience, that they are anxious again to travel the round of measures which proved so disastrous to this country? Are we to have again in succession a non-importation, an embargo, a forcing embargo, and a non-intercourse? I think this was the order in which we proceeded. And why all this? Is it because by it we shall injure Great Britain or benefit ourselves? If the former is a legitimate object, as some seem to believe, to be unceasingly pursued, no matter at what expense of

property or character, are we quite sure that this is the means of doing it?

If our merchants are not allowed to import as well as export, they will be driven to abandon the ocean; for no cargo which they can make up will bear the double freight of the outward and homeward voyage, which it must do if the vessel is to return empty. This, according to the law, is to be the case as it respects England. As it regards the ports of the Continent under French rule, the joint operation of the British Orders in Council, and the new French anti-commercial regulations, will put an end to our trade there, at least a direct trade. Do we not then in adopting this system give up the carrying trade of the world to Great Britain? Even your own products will find their way to market in British bottoms; for though you may prevent English vessels from entering your ports, you cannot prohibit their approaching your coasts or taking in cargoes at places which do not belong to you. As to their goods, they will get into the country as long as there is a demand for them, notwithstanding any measures which you may adopt. But without examining the effects of the restrictive system in all its bearing towards Great Britain, let me say that I fully concur with my honorable colleague on the other side of the House, (Mr. MITCHILL,) in the remarks he made a few days since on the inefficiency of this system to coerce foreign Powers, and the necessity of a speedy abandonment of it. In one respect, however, I differ from him. I mean in the opinion he seems to entertain of the embargo, and as this is a part and parcel of the restrictive system, one to which our present law seems to point, and on which we may be soon called upon to act, I shall ask the indulgence of the Committee while I submit a few remarks.

My colleague, Mr. Chairman, professes to believe that if the embargo had not been broken; and had been persisted in a few months longer, it would have accomplished its object; we should have had the British lion crouching at our feet, willing to accede to any terms to prolong his existence, which it seems would have depended on our will and pleasure. This is, indeed to draw a flattering picture of our power and of our consequence. What Bonaparte, with his millions of soldiers and his scores of princes and kings, has not been able to effect after years of war, we can do by a little bit of paper marked with strange characters by the Clerk of this House. This is, indeed, a great discovery, and its inventor deserves—a place in our Patent Office. If, however, the charm will be broken when the embargo is evaded, I am afraid it will detract from the merit of the discovery; for as certainly as you pass your restrictive laws, as certainly will they be evaded, and that too by friends and by foes. They will press hard on some, who, from necessity, and will hold out temptations to others, who, from cupidity, will break through them.

But, sir, it appears to me that however inconvenient or injurious the embargo might have been to Great Britain, and inconvenient and injurious it

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certainly was, it could not, as it did not, coerce that nation. To have this effect, a commercial intercourse with these United States must not only be necessary to the well-being, but to the very existence of England. Does any man really believe, that if this country should be absolutely destroyed by some convulsion of nature, or become a province of the Great Empire, that Britain would therefore, and for that cause alone, go down? Do we not know, that England existed with almost its present population before this country was discovered? and is it not certain that even in our own times she lived through a war with us, although we then had no commercial intercourse with her? Can you believe, that the embargo was more oppressive to Great Britain, whose commerce and resources it affected but partially, than to us, whose commerce it destroyed totally? In truth, the period when the embargo pressed most hardly on England, was when it commenced its operation. She was suddenly cut off from the supplies which this country had afforded her, and our market for her manufactures was closed against her. She had to seek new vents for her goods, and to search in other places for raw materials. The longer you kept on your embargo, the less she must have been affected by it.

With all her privations, is it not certain that England derived some positive advantages from our embargo? As in politics and legislation, one fact is at any time worth two theories, I will mention one or two circumstances. We have heard much in this country of the scarcity of gold in England, and know that the House of Commons raised a bullion committee to inquire into the causes of this scarcity. This committee made a report, which has since been published, containing among other things, a statement of the testimony delivered before them; and I wish to call your attention to the deposition of Mr. Hughan, a West India merchant. He says, that the exchange between Jamaica and England, for the two last years, has uniformly been very high in favor of England; at one time, for bills at ninety days sight, it was at twenty per cent., and was then (1810) at ten per cent. above par; and declares, that the principal cause for this high exchange, is the great export of manufactures through that channel for the Spanish settlements in Cuba and the Main. He states that a considerable part of the supply of manufactured goods now furnished to the Spanish colonies from Jamaica, used formerly to be furnished from the United States; and that one very powerful and the most powerful cause of this change was, the operation of the American embargo. Mr. Irving, the inspector general of the customs, also gave testimony, and produced a statement of imports and exports. In these tables, I turn to the exports to Jamaica for two years, 1804 and 1809, and discover that the official value of those in the former year is £4,096,193 sterling, and in the latter £8,755,193; making a difference in favor of the latter of £4,658,997 sterling. As Mr. Irving says that the official valuation was fixed in 1696,

since when there has been no alteration, and that the difference between the official and the actual value of British manufactures in 1809, appears to have been from forty-five to fifty per cent., we must add to the excess £2,329,498, making it £6,988,495 sterling; or upwards of thirty-one millions of dollars.

Now, sir, you will find, by recurring to the commercial report of the Secretary of the Treasury, of 28th February, 1806, that, taking the average of the years 1802, 1803, and 1804, (and I go back to those years, because it was before the commencement of our restrictive system,) our annual imports from the dominions of Great Britain, in Europe, amounted to twenty-seven millions four hundred thousand dollars. And will gentlemen yet say, that the embargo would have ruined England, if it had been continued? If she could exist with an American exportation of twenty-seven millions, she surely may with thirty-one millions. Are we still confident that our embargo has been productive of no advantage to Great Britain? By our commercial restrictions, we have cramped the enterprise of our merchants, and drawn them from a field which must produce a rich harvest to those who cultivate it. I have on a former occasion, observed that Spanish America would soon afford a free and open commerce, which would of itself satisfy all our wants, and be equal to all our wishes. The value of this commerce is felt by the English, and they now have it. We, on the contrary, by our schemes of non-intercourse, and double duties, and navigation laws, not only leave them in the possession, but prevent our merchants from entering the lists with them. Nay, as if apprehensive that at some future time these prospects might be too tempting for our people, we have lately taken pains to raise the prejudices of the Spaniards against us, by declaring ourselves the owners of one of their provinces, and marching an armed force to take possession of it.

One farther fact. What has been the effect of the embargo and the other restrictive laws on the British Provinces to the north of us? Let the merchants of the trading towns of the Hudson answer you. Before the embargo, the Canadas were in a sickly state; they are now healthy and flourishing. Formerly, their chief trade was with the Indians, and for furs; now, they are rivals in your own business, with your most commercial States. While our capital and enterprise have been decreasing, theirs have been increasing; and in proportion as our trade has been hampered and diminishing, the commerce of the British Provinces has been fostered and extending itself. Their population and wealth and importance have been wonderfully advanced by our restrictive laws. There is no deception in this, Mr. Chairman. Many of the leading towns in the interior of the State which I have the honor, in part, to represent, will be my witnesses. Ask their merchants why they are idle and about to remove, and they will answer you that you have driven their customers and their business to Canada, and that they must follow them. I forbear to press

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this subject farther, and I have merely adverted to these facts to show, that if Great Britain will be injured by our restrictive laws, she may also be benefited.

What will be the effect of this non-importation or non-intercourse system on ourselves? We must have money to carry on the Government; ay, sir, and much money too; for appropriation bills have already made their way through this House, by which we have granted about six millions for the expenses of Government during the current year. And how do you expect to get this sum if imports are prohibited? I know the Secretary of the Treasury has recommended a large increase of duties, but a table of duties without imports is mere paper, it will bring nothing. Indeed, without your non-intercourse, a temporary additional duty, so large as that recommended, if it does not totally suspend importations, will not produce much for your Treasury. It is holding out a temptation for smuggling.

Your merchants—how are they to be affected by this system? Do we not know that those trading to Europe have, during the last season, exported large quantities of the products of this country, and are we yet to learn, that, owing to the embarrassments of commerce, much of that property remains unsold, and of that which has been disposed of, a part, and not an inconsiderable part, is yet unpaid for? And yet we are by our own regulations to prevent their making investments, or receiving remittances. If we do so, we shall not only prostrate many an individual, but we may shake the mercantile world to its centre. Having his property locked up in Europe, the merchant will not be able to meet his engagements; the property will be lost to him, and bankruptcy and ruin must follow. Your West India traders—The course of that business, you are informed, is to send out cargoes in the Fall, which are disposed of to planters, who pay in the produce of the islands when the crops come in. As this takes place in March, and we close our ports on the 2d day of February, it follows, that these merchants will also be sacrificed. These will be the particular effects of enforcing the non-importation at this time. The general effect will be, as I heretofore observed, to drive our merchants from the ocean; your external commerce will wither at the touch of this baneful law, and your merchants will sink under the reiterated strokes which we, their protectors, have aimed and are aiming at them.

But is this system to injure the merchant alone? What is to become of that useful class of citizens connected with shipping: the sailor, the ship-carpenter, the sail-maker, the blacksmith, the rope-maker, and the long list of mechanics and laborers who find support and employ from your merchants? Must they not be reduced to want, and become objects of charity, or do as many have already done, leave the country? The agriculturists—Where will the grower of hemp find a market for his stock, if you have no shipping? What is to be done with the cotton, the tobacco, and the grain which remain on hand, if

your merchants can no longer export? Must they not be wholly lost to the planter and the farmer, or sacrificed by them to the speculator? Are there not other evils which must result from this system? In the former non-importation law, care was taken to make such exceptions as allowed the people to receive articles considered of necessity; but this law is general, and applies to all articles the growth, produce, or manufacture of Great Britain and her colonies. The Southern planter requires coarse cloths for his blacks, and the northern farmer plaster for his fields, and both the one and the other must have salt; and yet, sir, under this law we are to have neither cloth, nor plaster, nor salt. These are some of the evils which must grow out of a non-importation system, such as that which has been attempted to be put in operation by the proclamation of November: that they are of the most serious kind, every person who hears me will admit, and that they are greater than the country will patiently bear, I verily believe.

Mr. Chairman, I feel that I have already trespassed upon your patience and that of the Committee. I trust, however, the nature and importance of the subject under discussion will be an apology for the range I have taken. I will now only observe, that I have attempted to establish the following positions: That no such arrangement has been made with the French Government as comes within the intent of the law of May, and that the assurances made to our Government were deceptive. That the proclamation of November was issued without authority, and that the non-intercourse is not in force. And that the evils which must result from an attempt to enforce this law by the custom-house officers, under the instructions which accompany the proclamation, are of a nature so serious and oppressive as to require the immediate interference of Congress.

Thus viewing the subject, I deem it my duty to propose an amendment to the law now before you, which, if adopted, will do away the effect of the proclamation, by permitting vessels to enter, and merchandise to be imported as freely as if the proclamation had not been issued.

Mr. EMOTT concluded by moving the amendment, which will be found in the commencement of his remarks.

THURSDAY, February 7.

On motion of Mr. NEWTON, the Committee on Commerce and Manufactures were instructed to inquire whether any, and, if any, what, alterations are necessary to be made in the act, entitled "An act supplementary to the act concerning Consuls and Vice-Consuls, and for the further protection of American seamen;" and that they be authorized to report by bill, or otherwise.

Mr. RHEA, from the Committee on Post Offices and Post Roads, presented a bill to amend an act, entitled "An act regulating the Post Office Establishment;" which was read twice, and committed to a Committee of the Whole on Monday next.

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*Payment of Claims—District of Columbia Banks.*

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Mr. JENNINGS, from the committee appointed on the twenty-eighth ultimo, on the petition of sundry inhabitants of the Indiana Territory, made a report thereon; which was read, and referred to the Committee of the Whole on the bill to authorize the laying out a public road from the line established by the Treaty of Greenville to the North Bend in the State of Ohio.

The House proceeded to consider the amendments of the bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territory of Orleans and Louisiana;" and the same were concurred in by the House.

A motion was made by Mr. GHOLSON that the House do come to the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for the temporary government of that part of the territory ceded by France to the United States, in the year 1803, which lies on the east side of the river Mississippi, on the north of the river Iberville and the Lakes Maurepas and Pontchartrain and the Gulf of Mexico, on the west of the river Perdido, and on the south of the Mississippi Territory; and that the said committee have leave to report by bill, or otherwise.

The resolution was read, and referred to the committee appointed on that part of the President's Message at the commencement of the session, which relates to that part of West Florida acquired by the cession of Louisiana.

A message from the Senate informed the House that the Senate disagree to the amendments made by this House to the bill, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli." They have passed the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," with amendments; to which they desire the concurrence of this House.

#### PAYMENT OF CLAIMS.

Mr. ROOR, from the Committee of Claims, who were instructed, by a resolution of the eighteenth ultimo, to inquire into the expediency of repealing or suspending the operation of the several acts of limitation, so far as they now operate to bar the payment of sundry claims against the United States therein described, made a report thereon; which was read, and referred to a Committee of the Whole on Monday next.

The report is as follows:

That by the report of the Secretary of the Treasury, of the 12th of December last, made to the Senate, it appears the five first-mentioned classes of claims may be admitted without danger of fraud, and that sufficient guards against fraud may be interposed in the three last-mentioned classes. The committee concur with the Secretary in this opinion. They beg leave further to observe, that they can discover no difference in the equity of claims on lost certificates, and on those which have not been lost, but are barred; they, therefore, submit the following resolutions:

*Resolved*, That provision ought to be made by law for the payment of the five following classes of claims, to wit:

1. Loan office certificates.
2. Indents for interest on the public debt.
3. Final settlement certificates.
4. Commissioners' certificates.
5. Army certificates.

*Resolved*, That it is expedient to provide by law for the payment of the three following classes of claims, to wit:

1. Credits given in lieu of Army certificates cancelled.
2. Credits for the pay of the Army, for which no certificates were issued.
3. Invalid pensions.

*Resolved*, That it is expedient to provide for the renewal of lost or destroyed certificates.

#### BANKS IN THE DISTRICT OF COLUMBIA.

The House resolved itself into a Committee of the Whole on the several bills for incorporating the District banks.

The bill incorporating the Farmers' Bank of Alexandria was first taken up, and amended, by reducing the capital from \$1,000,000 to \$500,000, striking out the section relative to the qualification of the President, limiting the duration to ten years, &c.

The Committee then took up the bill to incorporate the Banks of Potomac, of Washington, and Union Bank of Georgetown; which were severally assimilated in their provisions, and agreed to in Committee.

When an adjournment being called for, was carried.

FRIDAY, February 8.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to erect a light-house on Boon Island, in the State of Massachusetts, to place buoys off Cape Fear river, to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, in the State of Massachusetts; which was read twice, and committed to a Committee of the Whole to-day.

Mr. N., from the same committee, also presented a bill in addition to the act, entitled "An act supplementary to the act concerning Consuls and Vice-Consuls, and for the further protection of American seamen;" which was read twice, and ordered to be engrossed, and read the third time to-morrow.

Mr. PITKIN, from the committee to whom was committed the bill from the Senate, entitled "An act authorizing the discharge of Nathaniel F. Fosdick from his imprisonment," reported the same, without amendment, and the bill was ordered to be read the third time to-day.

The House proceeded to consider the message from the Senate, announcing their disagreement to the amendments made by this House to the bill, entitled "An act making compensation to John Eugene Leitzendorfer, for services rendered the United States in the war with Tripoli:"

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when a motion was made by Mr. Root, that the House recede from their said amendments.

A motion was also made by Mr. SWOORE, that the further consideration of the message aforesaid be indefinitely postponed; and, the question being taken thereon, it was determined in the negative.

The question was then taken on the motion of Mr. Root, to recede from the amendments aforesaid, and resolved in the affirmative.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making a further distribution of such laws of the United States as respect the public lands;" in which they desire the concurrence of this House.

The House then resumed the consideration of the unfinished business of yesterday, on the report of the Committee of the Whole, on the several bills for incorporating the banks within the District of Columbia; the amendments made in Committee of the Whole were concurred with, and all the bills were ordered to a third reading.

The House considered, in Committee of the Whole, the reports of the Committee of Claims unfavorable to the petitions of John Calhoun and William Gamble. The reports in both cases were reversed, and the petitions recommitted to the Committee of Claims, with instructions to report by bill.

#### ARTHUR ST. CLAIR AND JOHN CRAIG.

The House then went into a Committee of the Whole, on the report of the select committee on the petitions of Arthur St. Clair, and of John Craig; and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. MAcon reported that the Committee had had the said report under consideration, and directed him to report their agreement to each of the resolutions therein contained, as follows:

"Resolved, That the prayer of the petition of Arthur St. Clair is reasonable, and ought to be granted."

"Resolved, That the prayer of the petition of John Craig is reasonable, and ought to be granted."

The House proceeded to consider the said report of the Committee of the Whole; and, on the question to concur with the Committee of the whole House in their agreement to the resolution first recited, it was resolved in the affirmative—yeas 68, nays 39, as follows:

YEAS—Joseph Allen, Lemuel J. Alston, David Bard, William T. Barry, Elijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, William Chamberlin, Langdon Cheves, Martin Chittenden, Matthew Clay, Orchard Cook, John Davenport, jun., John Dawson, John W. Eppes, William Findley, Barent Gardener, Gideon Gardner, Thomas Gholson, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, James Holland, Jonathan H. Hubbard, Ebenezer Huntington, Robert Jenkins, Richard M. Johnson, Philip B. Key, Herman Knickerbacker, Joseph Lewis, junior, Robert Le Roy Livingston, John Love, Vincent Matthews, Archibald McBryde, Samuel McKee, William McKinley, William Milnor, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Thomas Newton, Joseph Pearson, Benjamin Pickman, junior, Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Samuel Ringgold,

John Ross, Adam Seybert, Daniel Sheffey, Dennis Smelt, George Smith, Samuel Smith, John Stanley, James Stephenson, Lewis B. Sturges, Nicholas Van Dyke, Archibald Van Horn, Kiltian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and Robert Wright.

NAYS—Willis Alston, jun, Ezekiel Bacon, Burwell Bassett, William W. Bibb, Adam Boyd, Rob't Brown, Joseph Calhoun, John C. Chamberlain, James Cochran, William Ely, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, David S. Garland, Peterson Goodwyn, Jacob Hufty, Thomas Kenan, Nathaniel Macon, Alexander McKim, John Montgomery, Timothy Pitkin, junior, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Samuel Shaw, John Smilie, Henry Southard, Richard Stanford, Jacob Swoore, Uri Tracy, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, and James Wilson.

Mr. CLAY, Mr. MCBRYDE, and Mr. HALE, were appointed to prepare and bring in a bill, pursuant to the said first recited resolution.

The question was then stated to concur with the Committee of the Whole in the second recited resolution; when an adjournment being called for, was carried.

#### SATURDAY, February 9.

Another member, to wit: MATTHEW LYON, from Kentucky, appeared, and took his seat.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill for the relief of Thomas and John Clifford, of Philadelphia, and Charles Wirgman, of Baltimore; which was read twice, and committed to a Committee of the Whole on Monday next.

#### TERRITORY OF ORLEANS.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes."

One of the amendments proposed to define the western boundary of the Territory, so as to make the Sabine the boundary from the ocean to the 32d degree of north latitude, and thence due north until it intersects the northern boundary line of Orleans Territory.

Mr. PITKIN said, although what he had said on this subject appeared to have no weight when the bill was before the House, he hoped when the bill came from the Senate, that those who were friendly to the bill would agree to the amendment. Even as the boundary was now fixed, there was a small tract of land on this side of the Sabine, which had been in dispute; but, perhaps, the western boundary might as well be fixed at the Sabine as anywhere.

Mr. MITCHELL said he had at first had some hesitation in yielding his assent to this amendment, not because of the extent of it, for the United States might have a claim of a greater extent, and had a color of title to the Rio Bravo,



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but because the line had been alleged to be a small river a little to the east of the Sabine; and because it was concluded by the officers of the parties on the Sabine that the intervening territory should not be occupied. But he did not believe that these claims of Spain were to be considered of any moment. In taking the Sabine as the western boundary the United States would undoubtedly exercise great moderation in the extension of their limits; and this line would be far from including all the territory which they might hereafter claim; and, in acceding to this boundary, he wished not to be understood as surrendering any claim the United States might have to a greater extent.

The amendment of the Senate was agreed to without opposition.

Another amendment of the Senate proposed to amend that part of the bill declaring that the Convention should be chosen by the free male inhabitants, by adding the word "white," so as to exclude free colored people of mixed blood from voting.

Mr. SMILE expressed the hope that the House would not agree to this amendment. The bill only provided for the election of a Convention to form a constitution; after which these people would permit whom they chose, to vote for Congress, &c. He could not help remarking that, so delicate was the Convention which framed the Constitution, on this point, that it had used only the word "persons." The amendment could answer no good purpose, and an agreement to it would not be very honorable to the House.

Mr. POINDEXTER said he had been impressed with a belief, when this bill was formerly before the House, that the population other than white formed a large proportion of the population of the Territory; but he had since understood that they were not now permitted to vote, and were excluded from the militia. When Louisiana was first acquired by the United States, a corps had been formed, composed of this description of people; but, on an apprehension of insurrection, they were dismissed, and their commissions revoked, &c.

Mr. MITCHELL thought the House had better reject the amendment. The act declared that all the people within certain limits should compose a State, and gave them a right to make all regulations, &c., for their government. The most safe depository of this sort of power would be the Convention in the first instance, and the Legislature in the second. He was, therefore, opposed to the amendment, because the Convention and Legislature were better able to decide the question than the House.

The amendment of the Senate was negatived—yeas 49, nays 60, as follows:

YEAS—Joseph Allen, Willis Alston, jun., William W. Bibb, Abijah Bigelow, Adam Boyd, James Breckenridge, Joseph Calhoun, John Campbell, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Matthew Clay, Joseph Desha, John W. Eppes, Barent Gardenier, David S. Garland, Thomas Gholson, Peter-son Goodwyn, Thomas R. Gold, Edwin Gray, William

Hale, James Holland, Jonathan H. Hubbard, Ebenezer Huntington, Robert Jenkins, Walter Jones, Thomas Kenan, Philip B. Key, Joseph Lewis, junior, John Love, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, John Montgomery, Thomas Newton, Joseph Pearson, Timothy Pitkin, jun., Samuel Ringgold, John A. Scudder, John Smith, John Stanley, James Stephenson, Jacob Swoope, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and Robert Wright.

NAYS—Lemuel J. Alston, William Anderson, Ezekiel Bacon, William T. Barry, Burwell Bassett, Robert Brown, William Butler, Martin Chittenden, James Cochran, William Crawford, Richard Cutts, John Dawson, William Ely, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Nathaniel A. Haven, Richard Jackson, jun., William Kennedy, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, William Milnor, Samuel L. Mitchell, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Gurdon S. Mumford, Thomas Newbold, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, Lewis B. Sturges, Samuel Taggart, John Thompson, Uri Tracy, Charles Turner, junior, Robert Weakley, Robert Whitehill, Ezekiel Whitman, and James Wilson.

#### COMMERCIAL INTERCOURSE.

On motion of Mr. EPPES all the orders of the day were laid on the table, and the House resolved itself into a Committee of the Whole on the bill supplementary to the act concerning commercial intercourse, &c.

Mr. EMOTT's motion being under consideration, to amend the bill so as to repeal the law of May last, &c., Mr. RHEA made a motion superseding that, viz: to strike out the whole of the bill.

Mr. EPPES said, that when, on a former day, this bill, designed only for the relief of our own citizens, was under discussion, subjects not at all connected with its merits were brought into view. A gentleman from New York (Mr. EMOTT) presented to the House on that occasion his view of our foreign relations, and exercised all his ingenuity to show, as it is but too often the practice here, that the Government of the United States is exclusively wrong, and the Government of Great Britain exclusively right. It seems that in this enlightened age new duties are assigned to a Representative. Under the pressure of every injury which foreign influence can inflict, a Representative is considered as discharging his duty, if, with a fine-spun web, he can present, under a suspicious aspect, either the motives or the acts of the Executive branch of his Government. No nation, ancient or modern, unless in the last stage of corruption, can be produced where, as in the United States, periods of difficulty have been seized by the Representatives, and the weight of their talents exclusively employed for increasing the public embarrassments. The speech of the gentleman from New York, however well he

may have covered it under mildness of manner and a fine-spun argument, is designed to convey to the people an idea, that the Executive has manifested partiality towards France in the late arrangement. The gentleman tells us, that while the Minister of one foreign nation was denounced here for an implied insult, the letter of the Duc de Cadore to Mr. Armstrong is passed over almost in silence; that the Secretary of State, in a letter to General Armstrong, tells him that the President thinks it unnecessary to make any remarks on it. The gentleman ought to have gone further, and stated the whole fact: that the letter of General Armstrong in answer to the Duc de Cadore was approved by the President; that, by the approval, he adopts as his own the language and sentiments of that letter. The letter of General Armstrong, by the approval of the President has become the act of his Government. For the sentiments contained in that letter the American Government is responsible and not General Armstrong. The firm, manly, and eloquent reply of General Armstrong to the Duc de Cadore stands precisely on the same footing as if it had been originally written under the directions of the Government. General Armstrong did not wait for instructions. He repelled, in a style comporting with the dignity of his station, the charges of the Duc de Cadore. The President, through the Secretary of State, approves his letter, adopts it as his own, and says he has nothing to add. Well, indeed, sir, might he say so, because the Minister had already said, in a style as pleasing to his country as to his Government, all that the occasion demanded. But, sir, the gentleman from New York cannot agree with his colleague in considering the President of the United States correct in issuing his proclamation. Why, sir, does the gentleman disapprove of the President's proclamation? Because, says the gentleman, the letter of the Duc de Cadore, of August, was not a repeal of the Berlin and Milan decrees. It is a mere promise that on a certain day they shall be withdrawn. When, sir, the President received the declaration of Mr. Erskine, the British Minister, that, on a particular day, the Orders in Council would be withdrawn, and issued a proclamation founded solely on that declaration, his conduct was warmly approved by men of all parties. The gentleman from New York joined in the burst of applause heaped on that Executive act. Was the letter of Mr. Erskine a repeal of the British orders? Unfortunately, we know practically it was not. Was it such a repeal as the gentleman contends ought to have taken place of the Berlin and Milan decrees, viz: under the sign manual of the Emperor? No, sir, it was just such a letter as that of the Duc de Cadore. In both cases the word of the Minister was taken as a pledge, and, on examining the two letters, so far as they may be considered a pledge, the words are nearly the same. I approved of the arrangement with Mr. Erskine; so did the gentleman from New York. I cannot see any difference in the ground taken by the Executive, except that one arrangement was with Great Britain and the

other with France. The one affected the interests of Great Britain; the other affects the interests of France. The gentleman from New York, more nice in distinctions than myself, may, perhaps, satisfy himself and the people that these two cases are marked by lines so strong as to render the conduct of the Executive in the one case an object of applause and approbation for himself and his friends, and in the other of suspicion and censure. It is not, however, my intention to pursue the gentleman through his argument. There is one part of it which I consider it a duty to pass in review, inasmuch as it is calculated to give to the public an erroneous view of the grounds taken by the Executive in the recent negotiation with Great Britain. The gentleman says, the President has not only required of Great Britain to withdraw her orders, but her blockades also. This, he says, she cannot and never will yield. This declaration is made, too, in the presence of the agent of Great Britain, who must have heard with delight the American Executive held up to suspicion, and an American Representative declare, on the floor of Congress, that demands were made on Great Britain, not sanctioned by the law of the last session. In order, sir, to support this declaration, the gentleman gives a view of the demands of the Executive on Great Britain totally incorrect and contradicted by every part of the correspondence before us. The gentleman tells you, that we have demanded of Great Britain not a withdrawal of the Orders in Council only, as contemplated by the law of last session, but of her "novel blockades." To establish the demands of the Executive, he turns, not to the correspondence, but to the Berlin or Milan decrees, and takes for our demand on Great Britain the definition of blockade given by the French Emperor. The gentleman is entirely mistaken as to the demand made of Great Britain by the Executive. The revocation of but one blockade, viz: that of May, 1806, is included in the demand of the Executive. The features of this blockade render it different from all other blockades. It is, in fact, from its character, more like the Order in Council, a permanent regulation of commerce, than a blockade. I will, however, first show from the correspondence, that the President did not, under the act of the last session, require the revocation by Great Britain of any blockade except that of May, 1806; and then, that from the peculiar features of that blockade, it must have been included in the demand made under the act of the last session. In the Message of the President, at the commencement of the session, page 4th and 5th, we find the demand stated in the following terms:

"Under the modification of the original orders of November, 1807, into the orders of April, 1809, there is, indeed, scarcely a nominal distinction between the orders and the blockades. One of these illegitimate blockades, bearing date in May, 1806, having been expressly avowed to be still unrescinded, and to be, in effect, comprehended in the Orders in Council, was too distinctly brought within the purview of the act of Congress, not to be comprehended in the explanation

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of the requisites to a compliance with it. The British Government was accordingly apprized by our Minister near it, that such was the light in which the subject was to be regarded."

This is the language of the President. In pages 38 and 39, of the correspondence, we find the declaration of Mr. Smith, our Secretary of State, to General Armstrong, in the following words:

"If the non-intercourse law, in any of its modifications, was objectionable to the Emperor of the French, that law no longer exists.

"If he be ready, as has been declared in the letter of the Duke of Cadore, of February 14, to do justice to the United States, in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the non-intercourse against Great Britain, to oppose to her Orders in Council a measure which is of a character that ought to satisfy any reasonable expectation. If it should be necessary for you to meet the question, whether the non-intercourse will be renewed against Great Britain, in case she should not comprehend, in the repeal of her edicts, her blockades which are not consistent with the law of nations, you may, should it be found necessary, let it be understood, that a repeal of the illegal blockades of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and, of course, identified with, the Orders in Council. With respect to blockades, of a subsequent date or not, against France, you will press the reasonableness of leaving them, together with future blockades not warranted by public law, to be proceeded against by the United States in the manner they may choose to adopt."

In pages 45 and 46, we have the declaration of General Armstrong and the Duke de Cadore. Mr. E. then read the following:

*From General Armstrong to Mr. Pinkney.*

PARIS, January 25, 1810.

"SIR: A letter from Mr. Secretary Smith, of the first of December last, made it my duty to inquire of His Excellency the Duke of Cadore, what were the conditions on which his Majesty the Emperor would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades, of a date anterior to that decree, his Majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger:

ANSWER.—"The only conditions required for the revocation, by his Majesty the Emperor, of the decree of Berlin, will be a previous revocation, by the British Government, of her blockades of France, or a part of France, (such as that from the Elbe to Brest, &c.,) of a date anterior to that of the aforesaid decree."

In page 47, we have the statement of Lord Wellesley to Mr. Pinkney:

"I have the honor to acknowledge the receipt of your note of the fifteenth ultimo, wherein you request to be informed whether any, and, if any, what blockades of France, instituted by Great Britain during the present war, before the first day of January, 1807, are understood by his Majesty's Government to be in force?

I have now the honor to acquaint you, that the coast, rivers, and ports, from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the Order of Council of the 7th of January, 1807, which order is still in force."

In page 71, of the correspondence, Lord Wellesley declares, in a letter to Mr. Pinkney:

"The blockade, notified by Great Britain in May, 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated, that the restrictions which it established rest altogether on the Order of Council of the 7th of January, 1807; they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France was instituted by Great Britain, between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force."

From this, sir, it appears that if we are to credit the President, the Secretary of State, General Armstrong, the Duc de Cadore, and the British Minister, Lord Wellesley, the demand was confined to the blockade of 1806. Was this blockade such a violation of the neutral rights of the United States as to come decidedly within the act of the last session? Let us examine its features. This blockade is a compound one, presenting three distinct characters:

1. It obstructs a trade from one port to another of the same enemy—France for example. This trade has been denied latterly though not formerly, by Great Britain, to be free to neutrals. The United States assert the neutral right to it.

2. It obstructs a trade from the port of one enemy to the port of another—from a French to a Dutch port, for example. This is a principle not before asserted by Great Britain. The present Cabinet of Great Britain contended against its conformity to the law of nations, in opposition to their predecessors, who attempted to justify the orders of January, 1807, on that principle.

3. It obstructs the direct trade of neutrals from their own country to any part of the coast from the Elbe to Brest—a coast not less than a thousand miles. For this part of the blockade there can be no defence which is not applicable to the Orders in Council. This blockade has been continued for four or five years. No force, either adequate or inadequate, has been stationed for carrying it into effect. No new notification has been given. It is, in fact, like the Orders in Council, a permanent regulation of commerce, and has nothing of the character of a blockade, except the mere name. This blockade consists in great part of the same prohibition with the orders of January, 1807, in which it is said to be comprehended; that is, against a trade along the belligerent coast. If the orders be unlawful, therefore, the blockade must be so; and if the orders be repealed as a violation of neutral trade, in compliance with the act of Congress, the obligation to repeal the blockade, as a like violation, cannot be contested. This blockade of May, 1806, is in violation of the principles laid down by all authors

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on the subject of blockade. It is in violation of the principles laid down in all the treaties which attempted to define a blockade. It is in violation of the principles contended for by every Administration under the American Government, from the period of WASHINGTON to the present time. The correspondence under General WASHINGTON's Administration, between the Secretary of State and Mr. Hammond, may be referred to for the principles asserted under that Administration. In the correspondence before us we have the principles as laid down by General Marshall and Mr. King. To these I will refer.

Mr. E. then read the following extracts of letters from Mr. King and Mr. Marshall:

*From Mr. King.*

"Seven or eight of our vessels, laden with valuable cargoes, have been lately captured, and are still detained for adjudication; these vessels were met in their voyages to and from the Dutch ports, declared to be blockaded. Several notes have passed between Lord Grenville and me upon this subject, with the view, on my part, of establishing a more limited and reasonable interpretation of the law of blockade, than is attempted to be enforced by the English Government. Nearly one hundred Danish, Russian, and other neutral ships have, within a few months, been, in like manner, intercepted, going to and returning from the United Provinces. Many of them, as well as some of ours, arrived in the Texel in the course of the last Winter; the severity of which obliged the English fleet to return to their ports, leaving a few frigates only to make short cruises off the Texel, as the season would allow.

My object has been to prove that, in this situation of the investing fleet, there can be no effective blockade, which, in my opinion, cannot be said to exist without a competent force, stationed and present at or near the entrance of the blockaded port."

*Extract of a letter from Mr. King to Lord Grenville, dated*

*LONDON, May 23, 1799.*

"It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that consequently the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade, in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the siege is continued or raised. A siege may be commenced, raised, recommenced and raised again, but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information."

*Extract of a letter from Mr. Marshall, Secretary of State, to Mr. King, dated*

*SEPTEMBER 20, 1800.*

"The right to confiscate vessels bound to a blockaded port, has been unreasonably extended to cases not coming within the rule, as heretofore adopted.

"On this principle, it might well be questioned, whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which it is founded the right to intercept and confiscate supplies, designed for a blockaded town, it will be difficult to resist the conviction that its extension to towns, invested by sea only is an unjustifiable encroachment on the right of neutrals. But it is not of this departure from principle—a departure which has received some sanction from practice—that we mean to complain. It is, that ports, not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and, on that account, confiscated."

I have shown, from the correspondence, that the blockade of May, 1806, was the only one included in the demand of the Executive. I have shown that it is not only a violation of our neutral rights, but of the principles contended for by men of all political parties under every administration of this country; and I cannot but express my regret that the gentleman from New York should consider that, under the law of the last session, this blockade ought not to have been included in the demand of the Executive on Great Britain; that he should declare in the hearing of the British agent that demands had been made by the Executive of the United States which it would be extremely convenient for us if Great Britain would allow, but which she never could yield. The gentleman from New York has entered into an argument to show that the Berlin and Milan decrees are not repealed. We have just heard of the arrival of a French Minister; he has left France at a time to bring us certain information on this question. I have no wish to enter on this interesting question, with a bandage round my eyes. Whether France has complied with her engagements; whether France has failed in her engagements, cannot be a subject of ingenious speculation many days longer. Whatever may be the information received, I shall endeavor to adhere to what I deem the real interests of my country, and, so far as I am able, to maintain its rights against the unprincipled aggressions of every foreign nation.

I will now make a few observations on the bill before the House. It contains but a single section, and exempts from forfeiture goods owned wholly by citizens of the United States, which shall have departed from a British port prior to the second day of February, 1811. When the report of the Secretary of the Treasury on the subject of modifications of the non-intercourse system was referred to the Committee on Foreign Relations, it appeared to be the unanimous sentiment of the committee, that goods which had left a British port, before the President's proclamation reached the port ought to be exempt from the penalty of the non-intercourse law, although they might not arrive until after the 2d day of February. It was considered not inconsistent with an honest compliance with our engagements with France, and seemed to be required.

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by that general principle of policy which is adhered to in all free countries, of allowing sufficient notice to its citizens of the commencement of penalties and forfeitures. The bill for enforcing the non-intercourse system was reported with that limited provision. After the bill was printed various statements were received by the committee, all tending to show that the orders of our merchants were sent out in September and October; that, from the change in the actual state of commercial capital in this country, goods were at present purchased with cash, and not only became the property of our citizens under the orders of merchants sent before the President's proclamation issued, but were at the risk of the purchasers; that these goods were actually paid for before the President's proclamation issued; that they could not be brought in before the second day of February. The committee, having previously decided that time ought to be allowed for the President's proclamation to reach a British port, and taking into view the great injury our own citizens would sustain from a rigorous construction of the law, determined to extend the time to the ultimate period at which a citizen could put his property on board without infringing the laws of his country. It is not supposed that the construction put upon the law is strictly within its letter—it is, however, perfectly within its object. It was designed to operate on the nation refusing to modify or withdraw its edicts. To give it a construction which would either confiscate property *bona fide* American, or lock it up in British ports, would be to destroy our own resources, and produce no effect on Great Britain. Under the sixth section of the law, it is not made unlawful to put on board British manufactures with the intent to import them, until the expiration of the three months after the proclamation; its being unlawful after that period depended on Great Britain's following the example of France and revoking her edicts; according, therefore, as the citizen was more or less sanguine, his interest might be more or less involved by supposing that Great Britain would withdraw. Orders sent previous to the issuing of the President's proclamation violated no existing law. Those sent afterwards cannot be considered as given in violation of law, inasmuch as the commencement of the law depended on a contingency, viz: the modification or withdrawal of the British orders. There is another circumstance which operated on the committee: The law of the last session was not considered by the committee as a plain rule of action which every citizen could clearly comprehend, and so arrange his affairs as to avoid its penalties. The fourth section of the act of last session revives certain sections of another act, on the happening of a certain event, three months after that event shall have been proclaimed by the President. This reviving section does not declare that from and after three months from the date of the President's proclamation there shall be non-intercourse, but that particular sections of a former non-intercourse law shall be revived.

Each of the revived sections contain the words "20th of May next," and it has been made a question whether these words are revived as part of the sections. It is not supposed by me that such is a proper construction of the law. It is only stated for the purpose of showing that the law was not in that clear, decided form in which penal statutes ought to be enacted. In the construction given to the law, more regard was paid to its objects and principles than to its strict letter. And, if, for the purpose of affording relief in cases peculiarly hard and operating on our own citizens exclusively, we have placed on the law a construction not warranted by its letter, I hope we shall be justified by the purity of the motives under which we have acted.

Mr. EMOTT explained.

Mr. STURGES said he was happy that he felt himself so situated that he could avoid that course of discussion upon the present occasion, so much reprobated by the honorable gentleman (Mr. EPES) from Virginia. He said he should not undertake to enter into a discussion of our foreign relations, nor say much upon our restrictive system; that his friend from New York (Mr. EMOTT) had already done that fully and ably.

He said he was at present inclined to support the amendment proposed by the honorable gentleman, (Mr. RHEA, of Tennessee,) and if the words should be stricken out as proposed by that gentleman, (as one good turn deserved another,) he hoped he would be disposed to support a proposition, which he (Mr. S.) would then submit to the Committee. If the Committee should agree to strike out, Mr. S. would then propose to insert in lieu thereof, after the words "be it enacted" the following words, (which he read to the Committee,) viz: "That an act entitled an act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, passed May 1, 1810, be and the same is hereby repealed."

Mr. S. said he was inclined to favor the amendment of the gentleman from Tennessee on another ground. He was not willing to imply by any vote of his a recognition of the efficacy of the non-intercourse law, so called, which could not, in his opinion, upon any principle, have any operative force, until the 20th of May next. He flattered himself, if gentlemen would be so good as to attend to him, that he should be able to demonstrate to their satisfaction the truth of this position; and that the chairman of the Committee of Foreign Relations, exercising his usual candor, would himself be satisfied. The law, passed March 1, 1809, contained a number of sections which went to prevent importations from Great Britain and France, and their dependencies. This law (containing a clause limiting its duration) was to expire at the end of the next session of Congress. The then next session of Congress ended the last of June, 1809. The law of March, 1809, therefore, then expired. The law of May 1st, 1810, enacted that certain sections of that of March, 1809, should be revived

upon certain contingencies. Those sections, thus revived, are the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 18th. Mr. S. then recurred to those sections, and read the third, which is as follows :

Sec. 3. *And be it further enacted*, That, from and after the 20th day of May next, the entrance of the harbors and waters of the United States, and the territories thereof, be, and the same is hereby interdicted to all ships and vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either—vessels hired, chartered, or employed by the Government of either country, for the sole purpose of carrying letters or despatches, and also vessels forced in by distress, or by the dangers of the sea, only excepted. And if any ship or vessel sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either, and not excepted as aforesaid, shall, after the said 20th of May next, arrive either with or without a cargo, within the limits of the United States or of the territories thereof; such ship or vessel, together with the cargo, if any, which may be found on board, shall be forfeited, and may be seized and condemned in any court of the United States, or the territories thereof, having competent jurisdiction; and all and every act and acts heretofore passed, which shall be within the purview of this act, shall be and the same are hereby repealed."

Mr. S. said it was unnecessary to read the other sections to which he had referred, as the phraseology, as to the time when they were to take effect, was the same as in the section which he had read. He said it would not answer the purpose of gentlemen who held a different opinion from him, to argue in such a case as the present, from the intention of the Legislature. He said it was a principle, in construing penal statutes, to construe them strictly. But he said it was not necessary for him, in support of his position, to resort to this rule of construction. The words of these sections are explicit, and the meaning plain. They are revived in the law of May, 1810. They must be considered as revived in *totidem verbis*—as the whole of the sections are revived generally, it is not competent to say, that one part of the section is revived, and not the other part. If they had been transcribed *verbatim*, and incorporated in the law of May, 1810, there could have been no question; and there can be no difference as to this point between that case, and reviving them without excepting any part. Mr. S. therefore concluded, that as the expressions in the sections referred to were, that they were to take effect the 20th of May next; and the law reviving them passed the 1st of May, 1810; that they cannot have any efficacy until the 20th of May, 1811. And he said the gentleman from Virginia, (Mr. EPPES,) in attending to this point, had implied his doubts upon it by saying, that as there might be doubts among lawyers, though among unlearned men there could be none, the Committee of Foreign Relations, in reporting the bill now under consideration, were disposed to give a liberal construction to the meaning of the Legislature. But, said Mr. S., this cannot help the matter. No new law, in the nature of an explanatory law, can give efficacy to the former

one, if that law would otherwise have no force. If, then, he was correct in his ideas upon the subject, and he thought every lawyer in the House must be of his opinion, Mr. S. asked, what is the consequence? He said that, from the 2d of February, any seizures which have been or shall be made by your custom-house officers, cannot be considered as legal. Your Federal courts cannot condemn property so seized; and in case they are made, your State courts will sustain actions of trover and trespass in favor of the owners thereof against such officers.

Mr. S. said that although he did not vote for any of these laws, yet, having been one of the Legislature, he felt his share of mortification in consequence of the situation in which we were placed. That this blunder must not only expose us to the ridicule of our own citizens, but also of foreign nations. That the law having no force or efficacy, the President's proclamation was without authority. He really, therefore, thought the best way to get rid of the difficulty was to repeal the law; and he hoped gentlemen from all sides of the House would be willing to throw aside party spirit, and unite in endeavoring to do some wise thing, and thereby remove the imputation to which, by our blunder, we have subjected ourselves.

He thought we ought to begin anew, and remove the rubbish out of the way. We had been going headlong, and progressing in blunders for several years. We began at the session of Congress, 1805 and 1806, and owing to pride of opinion, or some other cause, our affairs have been growing worse and worse. He thought our prospect a gloomy one, and he feared our fate would be dreadful, indeed, unless we retraced our steps. He said there were no natural causes which necessarily produced our difficulties. They were owing to our own mismanagements; and if we would unite in changing our course, we might yet be prosperous.

Mr. WRIGHT.—Mr. Chairman: The gentleman from New York (Mr. EMOTT) labored yesterday for three hours on his proposed amendment to the bill under consideration, and exercised all his ingenuity to seduce us into a violation of the faith of the nation, pledged in the act entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes." By this act the nation pledged itself to Great Britain and to France, "that if either of them should 'so revoke or modify their edicts that they should 'cease to violate the neutral commerce of the 'United States, that the President *should*, by 'proclamation, declare the same; and that, three 'months after the date of said proclamation, 'no goods, wares, or merchandise, the growth, 'produce, or manufacture of the other nation, 'her colonies or dependencies, *should* be imported 'into the United States." The Government, strictly preserving her neutral character, at the same moment presented to both nations the same proposition, and by the solemnity of that act, in the face of the world, pledged the faith of the

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nation to the faithful performance of the condition above stated, on their part to be performed, in the event of either Great Britain or France so revoking or modifying their edicts that they should cease to violate the neutral commerce of the United States.

France, on the 5th of August, 1810, did so revoke her edicts that they should cease to violate the neutral commerce of the United States after the second day of November; and, although the fact has been established by the letter of the Duke of Cadore, of the 5th of August, to General Armstrong, our Minister at Paris, and by him communicated to the President of the United States; and, although the President did, by his proclamation, bearing date the second of November, in obedience to the said act of Congress, declare "that the edicts of France violating the neutral commerce of the United States had been so revoked or modified that, from and after the second day of November, they would cease to violate the neutral commerce of the United States;" whereby, after the expiration of three months from the date of said proclamation, by virtue of the act aforesaid, "no goods, wares, or merchandise, the growth, produce, or manufacture of Great Britain, her colonies or dependencies, should be imported into the United States, unless she, before the expiration of that time, revoked her edicts." Yet, sir, this gentleman, to the bill on the table contemplating a faithful execution of the non-intercourse law against Great Britain, has proposed an amendment that "no vessel or merchandise shall be liable to seizure or forfeiture, on account of any infraction, or presumed infraction, of the provisions of the act to which this act is a supplement;" thereby substantially to repeal the non-intercourse act, although France has revoked her decrees, and Britain has refused to revoke her Orders in Council, and by the last information from our Minister in London, every spark of hope of their being revoked had been extinguished.

That gentleman, a representative of the American people, has proposed this direct breach of public faith, and as a pretext to the unprincipled act, has had the temerity to declare "that the President had no authority to issue his proclamation; that the assurances of France to our Government were deceptive; that the Berlin and Milan decrees were not revoked; and that the non-intercourse act is not in force;" and thus has arraigned the President for issuing his proclamation.

By the Constitution, the Departments of the Government are distinctly marked, and the President authorized, as the legitimate organ, to discharge every function of the Executive. Besides, the non-intercourse act has expressly authorized and directed him, by proclamation, to declare the fact of the revocation or modification of the edicts which the belligerents were by that act invited to revoke.

As well might that gentleman question the legitimacy of a treaty after it had been ratified and declared by proclamation, or an act of Congress

after it had passed the usual forms and been duly published. Sir, this act of the President, as to every fact stated, implies absolute verity, and, like any other record, can be tried only by itself.

Had the gentleman contented himself with the discharge of his Legislative duties, and indulged the President in the exercise of his Executive functions, we should have been relieved from a long speech, calculated only to inculpate the President and expose the gentleman's devotion to Great Britain. How, I ask, could the President act a different part, from the evidence in the case? The Duke of Cadore, the French Minister of Foreign Relations at Paris, in writing informed General Armstrong, the American Minister at that Court, on the fifth of August, "that he was authorized to declare to him, that the decrees of Berlin and Milan are revoked, and that after the first of November, they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council, and renounce the new principles of blockade which they have wished to establish, or, that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English." General Armstrong immediately communicated it to the President, who, being thus in possession of the information, was not only authorized, but bound to issue his proclamation.

I would ask, if this diplomatic evidence, the established mode of communication between nations, is not to be received and respected, if national confidence is not destroyed, and an end put to all diplomatic intercourse? Was not the President, in good faith, bound to believe the fact, and, believing it, bound to act as he did?

Sir, if Great Britain had made the like communication through Lord Wellesley to Mr. Pinkney, and he to the President, who had, thereupon, issued his proclamation, what would have been the conduct and language of this gentleman and those who think with him in political opinion? They would, I have no doubt, been prepared to eulogize the President, and publicly approve the act. In this assertion I am not left to conjecture, but will prove it by the most unequivocal evidence, if the gentlemen are consistent with themselves. You will recollect that, by the act of the first of March, eighteen hundred and nine, interdicting the commercial intercourse between the United States and Great Britain and France, and their colonies and dependencies, after a certain period, unless they should so revoke or modify their edicts that they should cease to violate the neutral commerce of the United States, the President in the case of either Power, so revoking or modifying their edicts, was authorized by proclamation to declare the same, whereby, the interdictions were, as to the Power so revoking, to be suspended, and in force only against the other; and I hope you never will forget the deep game that was played by Great Britain on that occasion, and the diplomatic trick that was practised on our Administration by Mr. Erskine's

memorable treaty. The President *then* placed full faith in the act of the British Plenipotentiary, and, on the signing of that treaty which revoked the Orders in Council, immediately issued his proclamation, and thereby dissolved the commercial injunction, whereby Great Britain was supplied with the necessaries of her existence. Then the President acted promptly, as in the case of France; then he acted on the information of the British Minister, as he did in the case of France, on the information of the French Minister. Then the treaty revoking the Orders in Council was rejected by the British Government; but now, in the case of France, the revocation of her decrees is confirmed and carried into full effect. But the proclamation in the case of France is denounced by the gentleman from New York as neither formal, substantial, or by authority, although by comparing it with the proclamation in the case of Great Britain, which I hold in my hand, it will be found formally and substantially a copy of it, varied only as to the Government to whose proceedings it relates. When I assure you that the President's proclamation in the case of Great Britain met with the approbation of the gentleman from New York and his political friends, you will feel surprised at their partiality; but, when you examine the resolution of the House of Representatives approving the conduct of the President in that case, you will feel no doubt of the fact.

Sir, this gentleman has told us, that the non-intercourse act is not in force, and that the American people will not submit to its execution, notwithstanding the revocation of the French decrees, the continuation of the British Orders in Council, and the President's proclamation.—Whence does this gentleman derive the power of declaring an act of Congress not in force, declared by the President's proclamation to be in force? Or in what section of the Union does the gentleman presume to say the American people will not submit to the law? That that gentleman's speech was intended to sow sedition among the people, and to encourage insubordination to this law, is too obvious.

Sir, the decrees of France, now they are revoked, seem to be more obnoxious to that gentleman than the British Orders in Council, now in full force. He denounces the Emperor for the Rambouillet decree, issued the twenty-third of March, eighteen hundred and ten; which subjected the ships of America to condemnation entering the ports of France, which the Emperor declares was an act of retaliation; because Congress had by their act of March, eighteen hundred and nine, subjected the vessels of France to condemnation entering the ports of the United States, yet that gentleman, when speaking of the British blockading order of eighteen hundred and six, issued without even a pretext, which by proclamation without investment subjected our ships to condemnation entering the ports of France, says, "with respect to their Orders in Council I have nothing to say, as to their justice, or their policy." He is prepared to condemn France for her act of

retaliation, but he is not prepared even to speak of Great Britain's new paper blockading system, much less to declare it unjust or impolitic; although Sir William Scott, in 1 Robinson's Rep. page 96, expressly declares, "that no vessel was liable to condemnation for entering a port alleged to be blockaded, unless it was invested by such a naval force as to make the entry therein hazardous."

Sir, I am no apologist for France—nor do I know how any American, particularly a member of Congress, can be the apologist for either, after France and England have both expressly admitted, that their Orders in Council and decrees were direct violations of the law of nations, and adopted from necessity, as a measure of retaliation against each other, and have each charged the other with the first aggressions on our neutral rights. On examining that subject, I find that England, by her Orders in Council of May, eighteen hundred and six, by proclamation had placed France in a state of blockade; that France in eighteen hundred and seven had placed the British isles in a like manner in a state of blockade; that England, by her Orders in Council of the eleventh of November, eighteen hundred and seven, laid a toll on neutral vessels, and made them pass through her ports; France by her decree of the seventeenth of December, eighteen hundred and seven, declared the vessels submitting to that order denationalized, and lawful prize; so that by their new principle of blockade, and their unprincipled retaliations, the commerce of the United States was cut up by the roots. The American Government, anxious to preserve the remnant of the property of the American merchants, that had escaped the rapacity of the tyrant of the ocean, on the twenty-second of December, eighteen hundred and seven, passes the embargo law, which the seditious clamors of certain arch traitors in the Eastern States, the violation of the law by treason and cupidity, induced Congress on the first of March, eighteen hundred and nine, to repeal, and to pass the present non-intercourse law, continued, under which France has revoked her decrees of Berlin and Milan, and now expects us to fulfil the conditions, which we voluntarily imposed on ourselves, in the event of either revoking their decrees.

The gentleman from New York insinuates that the British Order in Council of May eighteen hundred and six was not contemplated by our law. I would ask the gentleman whether that order did not violate the neutral commerce of the United States? And whether the act of Congress which declares, that, on either France or England so revoking or modifying their edicts violating the neutral commerce of the United States, that order is not as completely embraced, in letter and in spirit as any other Order in Council? Why then except it?

He also insists that the Emperor of France, when he revoked his decrees, where he says the United States shall cause their rights to be respected, intended more than the enforcing the non-intercourse law. How that gentleman collected



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his intention, but from the letter of the Duke of Cadore, I know not; and I am sure he could not from that letter, which says "I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that, after the first of November, they will cease to have effect; it being understood, that in consequence of this declaration the English shall revoke their Orders in Council, and renounce the new principles of blockade which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause your rights to be respected." Can language be more plain, that the revocation was to take effect on either of these alternatives? Or can there be a doubt that the Emperor wished it on the latter, as it might lead to a collision between the United States and Great Britain, if she did not revoke her Orders in Council? However, in order to prove that the Berlin and Milan decrees are yet in force against the United States, he read a paragraph from the Aurora, in which the Duke of Cadore, in a report to the Emperor of the third of December, says, "The orders of the British Council overturned the commerce of the world; the decrees of Berlin and Milan repelled those monstrous novelties. Sire, as long as England shall persist in her Orders in Council, your Majesty will persist in your decrees. Your Majesty will oppose to the blockade of the coasts and continental blockade, and to the pillage of the seas, the confiscation of English merchandise." Did he thus expect to impose upon us? Has not this report immediate relation to England, and English merchandises? Did any man in his senses ever suppose that the revocation or modification of the decrees as to the United States should extend to all other neutral Powers? Or can the confiscation of English merchandises be conceived to affect the United States, when he has expressly stipulated, "not to import any goods, wares, or merchandises, the growth, produce, or manufacture of Great Britain." The act of Congress is perfect evidence, that the revocation or modification of the edicts, so that they should cease to violate the neutral commerce of the United States, was all that was required, and that the United States should not import goods, wares, or merchandises, the growth, produce, or manufacture of the Power refusing to revoke her edicts. If the gentleman had read all that the Aurora said, he would have seen it declared, "that the Berlin and Milan decrees were revoked as to the United States. That, to the British paper blockade France had opposed not only her continental blockade, but her blockade by fire, by burning British goods and by branding the violator of her customs in the forehead with the letters V. D."

He now expresses a perfect confidence that the Berlin and Milan decrees are not revoked, from a hasty letter of our Chargé des Affairs, of the 11th of December to the Secretary of State, in which he says, "that about the 5th of December the New Orleans Packet was seized at Bordeaux, under the Milan and Berlin decrees; and that on the 10th day of December he had written

a letter to the Duke of Cadore, remonstrating against it, in which he says, "I am sure this act will not be approved by His Majesty, but that prompt measures will be taken to correct it." If the act had been in violation of our rights by an officer of the Government, it ought not to be ascribed to the Government, until the case had been correctly stated and redress denied; but we fortunately have a full statement of the case from Mr. Myers, our Consul at Bordeaux, of the 6th of December. "The brig New Orleans Packet, of New York, with a cargo of provisions, and three hundred bags of cocoa on board, bound to the Mediterranean for a market, went to Gibraltar, where, after lying some time, she came to this port where she has been sequestered." He also states, that "the schooner Friendship, of and from Baltimore, with a cargo of coffee and campeachy, is arrived five days ago in this river." He, on the 14th of December, says, "the brig Orleans Packet, mentioned in my former letter, has since been seized by the collector, and her cargo has been put in the Imperial custom-house." The schooner Friendship has been sequestered; but the Consul does not utter a complaint against France. No! he knew that by our agreement with France we had no right to import any goods, wares, or merchandises, the growth, produce, or manufacture of Great Britain or her dependencies; that one of them had just come from Gibraltar, and that they were both laden with British colonial produce, prohibited by the act of Congress of the 1st of May, and also liable to be burnt. Thus, Mr. Chairman, we find from a full examination of the case in the Aurora, and from a full statement of the case of the New Orleans Packet, there is no evidence that the decrees of Berlin and Milan are not revoked; which the gentleman seems so desirous to establish against the President's proclamation. And why this solicitude? I can find no other reason for it, but that it may impeach the British Cabinet—for, sir, we know, that Mr. Canning assured Mr. Pinkney that the British Orders in Council should be revoked, on the revocation of the decrees of France which had produced them; that Mr. Erskine gave the same assurances, and in the solemn form of a treaty, and that these assurances had lately been repeated by Lord Wellesley; yet, after the decrees of France are revoked, in the face of all these assurances, the Orders in Council are continued; and Mr. Pinkney tells us there is no expectation that they will be revoked; and he advises the United States to take high ground. Sir, there is no reliance on their promises; they have uniformly declared, that the French decrees were the cause of their Orders in Council, which should be withdrawn on the revocation of the decrees of France; and yet they are continued in full operation against us. On the other hand, Champagny, in a letter of the 22d of August, 1809, tells General Armstrong: "That the arbitrary acts of Great Britain had forced France into measures of reprisal. Let England revoke her orders of blockade of May 1806, against France, France will revoke her Berlin decree of 1807, against England."

'Let England revoke her order of November 1807, and the Milan decree of December 1807 will fall of itself.' These assurances made by England and by France induced the United States to pass the act, under the faith of which the decrees of France have been revoked. Yet, although Mr. Erskine's treaty, which he insisted to the last was made agreeably to the letter and spirit of his instructions, revoking the Orders in Council, has been rejected by the British Government; a treaty which every well informed American believes was made for the temporary purpose of removing the commercial restrictions, without any intention to ratify the same; and although France has revoked her decrees, violating the neutral commerce of the United States, whereby we are bound to carry into effect the non-intercourse act against England, we find honorable gentlemen on this floor exercising all their talents to prove the law not in force, or to effect a repeal of it, or to excite an opposition in the people to its execution, and ready to subscribe to the British pretext, that the decrees of France had been the cause of the Orders in Council, although it involved the absurdity of the effect preceding the cause.

Sir, while Great Britain finds such able advocates on this floor, she will find no necessity to redress our wrongs, but will wait the issue of our proceedings in Congress, to see if our remedial laws are not repealed, or our citizens excited to oppose their execution. But we ought not to be surprised at this, when we take a retrospective view of their conduct, their united and uniform opposition to the Administration for many years. They have reprobated every measure—Mr. Erskine's British treaty only excepted—and, as soon as that was rejected by the British Government, as being made contrary to instructions, our Administration was charged with making it, knowing that Mr. Erskine had no authority, and with seducing him to make it contrary to instructions. Afterwards, when Mr. F. J. Jackson, of Copenhagen memory, was sent over as a Minister, while his hands were yet stained with the innocent blood of the inhabitants of Copenhagen, and insulted the Administration with the charge of making the treaty with Mr. Erskine, knowing that he had no authority to make it, and after the peremptory asseveration "that Government had no such knowledge, that with such knowledge no such arrangement would have been made," and "that no such insinuation could be admitted," he replied, "that he made no insinuation, without being able to substantiate a fact, and in that I must continue," thereby persevering in the charge of falsehood in the Administration, for which he was dismissed. Again, our Government was expressly charged, with knowing that Mr. Erskine had no authority, and with dismissing Mr. Jackson without any just cause; that his charge was true, and that in this the Government acted under the influence of France. In order to make such an impression on the public mind, Mr. Jackson is treated with uncommon attention. When he arrives at Baltimore he is surrounded by tories, royalists, Burrrites, and British agents, and

treated with great politeness—when he arrives in Philadelphia, he is overwhelmed by the civilities of refugees, tories, Burrrites, and United States' Bank directors—when he arrives at New York, he is received with open arms by a set of beings of the same description, who invite him to a public dinner, and to test their attachment to the British Government treat him to "God save the King"—when he reaches Boston, there is great parade indeed; he is welcomed to the city by tories, traitors, disorganizers, and embargo-breakers, and Fanueil Hall, once the Council Chamber of the patriots of the Revolution, is prostituted to the disgraceful purpose of a public dinner to this disgraced Minister, and there we see a distinguished Senator of the United States testing his loyalty by the toast of "Britain's fast anchored isle, the world's last hope." After this hasty review of the past, we ought not to be surprised at any measures that may be taken against the Administration, when Great Britain is in the question.

It is not long, sir, since the late Administration was charged on this floor with being moved by an invisible hand; I wish I could pay the honorable gentleman from New York even that compliment, for really, Mr. Chairman, had I by accident been placed in this Hall, without knowing where I was, and heard the speech of the gentleman from New York, I should have supposed myself in some great council, and that that gentleman was a British advocate zealously discharging the functions of his vocation. Sir, he has told us that our restrictive system and the embargo were bad policy, that as to England they had no effect. What, I would ask, would be evidence to him of an effect? Were the immense riots of the English manufacturers thereby turned out of employment nothing? Was the King's descending from the throne to issue a proclamation making Halifax a free port, and inviting the Americans treasonably to trade to it, even without ship's papers, nothing? Was it nothing to commit misprision of treason by seducing our citizens to the treasonably feeding our enemies, thereby giving them aid and comfort? Was the rescuing a British murderer, sentenced to the gibbet at Detroit for killing an American citizen in the execution of the embargo law, nothing; when in good faith he was bound to have caused that murderer and those traitors to have been delivered up to the United States, that they might have been brought to condign punishment?

Can there after this be a doubt of the powerful effects of the restrictive system? Or does any man doubt that the embargo law, had it been continued for twelve months more, and the American people had been faithful to themselves in the execution of it, that the desired effect would not have been produced? I presume not. Can the gentleman from New York expect us to adopt his amendment, after the nation has pledged itself by their voluntary tender of terms, which have been accepted, and that acceptance declared by proclamation? I am sure this House will disdain so perfidious a policy and reject his propo-

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sition violative of national faith and national honor.

Mr. RHEA supported the motion to strike out the whole of the bill, on the ground that to pass such a bill would be a breach of our faith with France.

Mr. BIBE moved that the Committee rise to allow further time for reflection on the subject.

Mr. GARDENIER opposed the motion on account of the critical state of the mercantile world, which required an immediate decision.

Mr. BACON said he should vote for the motion, because he found it was impossible to get at the question. The bill had been before the House several days, and, instead of receiving a decision on its merits, had been met by motions not intended for the relief of our merchants, but the embarrassment of their proceedings.

Mr. QUINCY said that a subject of this kind ought to be fully discussed; and no objection could arise to the loss of time thus employed.

Several gentlemen wished to speak to the merits of the bill; but the Chairman confined the debate to the question of the Committee's rising.

The Committee rose, ayes 62, and were refused leave to sit again, ayes 35.

Mr. EPPES moved to take up the bill in the House; but a motion to adjourn prevailed, 59 to 51.

#### MONDAY, February 11.

Mr. STURGES presented sundry petitions of the inhabitants of the city of New York, to the same effect with the petition of the Synod of Pittsburgh, presented the fourth ultimo, which were referred to the Committee of the Whole on the bill to amend an act, entitled "An act regulating the Post Office Establishment."

On motion of Mr. SEYBERT, a committee was appointed to inquire into the expediency of making a further appropriation for the support of a Library; and that the committee have leave to report by bill, or otherwise. Messrs. SEYBERT, GOODWYN, and ELY, were appointed the said committee.

A motion was made, by Mr. POINDEXTER, that the House do come to the following resolution:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of providing, by law, for the final adjustment of claims to lands, and for the disposal of the lands of the United States, lying north of the Iberville and the Lakes Maurepas and Pontchartrain, west of the river Perdido, and south of the Mississippi Territory; and that the said committee have leave to report by bill, or otherwise.

And, on the question that the House do agree to the said resolution, it was determined in the negative.

The SPEAKER laid before the House a letter from the Governor of Ohio, communicating information of the ratification, by the Legislature of that State, of the amendment proposed by Congress at their last session, to the Constitution of the United States, respecting titles of nobility; which was read, and ordered to lie on the table.

The bill from the Senate, entitled "An act making a further distribution of such laws of the United States as respect the public lands," was read twice, and committed to the Committee of the Whole to whom is committed the bill of this House for the disposal of certain copies of a collection of the laws, treaties, and other documents relative to the public lands.

Mr. BASSETT reported resolutions recommending the printing, for the use of the members, the collection of Parliamentary precedents made by Mr. LAMBERT, and allowing him compensation therefor.—Referred to a Committee of the Whole.

The following engrossed bills were read a third time, and passed:

The bill authorizing the election of sheriffs in the Indiana Territory; the bill authorizing the discharge of Nathaniel F. Fosdick from imprisonment; the bill in addition to the act, entitled "An act supplementary to the act concerning Consuls and Vice-Consuls, and for the further protection of American seamen."

#### BANKS IN THE DISTRICT OF COLUMBIA.

The bill to incorporate the subscribers to the Farmers' Bank of Alexandria, was read the third time.

Mr. SMILIE asked for the yeas and nays on the passage; which were, for the bill, 70; against it, 36, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., William T. Barry, Burwell Bassett, Abijah Bigelow, James Breckenridge, William Butler, Martin Chittenden, Matthew Clay, Richard Cutts, John Davenport, jun., John Dawson, William Ely, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, Daniel Heister, William Helms, James Holland, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, junior, Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, Joseph Lewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, John Love, Vincent Matthews, Archibald McBryde, William McKinley, Pleasant M. Miller, William Milnor, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Thomas Newton, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Josiah Quincy, John Rhea of Tennessee, Samuel Ringgold, Ebenezer Sage, John A. Scudder, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, James Stephenson, Lewis B. Sturges, Samuel Taggart, John Thompson, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and Laban Wheaton.

NAYS—Joseph Allen, William Anderson, Ezekiel Bacon, Daniel Blaisdell, Adam Boyd, Robert Brown, Joseph Calhoun, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, William Crawford, Joseph Desha, Meshack Franklin, Nathaniel A. Haven, Walter Jones, Aaron Lyle, Nathaniel Macon, Samuel McKee, Samuel L. Mitchell, Thomas Moore, John Nicholson, Benjamin Pickman, junior, John Porter, Matthias Richards, John Roane, Erastus Root, Ebenezer Seaver, Adam Seybert, John Smilie, Henry Southard, John Stanley, George M. Troup, Ezekiel Whitman, and Robert Witherspoon.

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*Banks in the District of Columbia.*

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The bill to incorporate the Bank of Potomac was then read.

Mr. McKee called for the yeas and nays, and made some observations against the bill; which were answered by Messrs. PICKMAN and LOVE.

The vote was—yeas 57, nays 42, as follows:

**YEAS**—Joseph Allen, William T. Barry, Daniel Blaisdell, James Breckenridge, John Campbell, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, William Findley, Thomas Gholson, Charles Goldsborough, Edwin Gray, Nathaniel A. Haven, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Richard M. Johnson, Philip B. Key, Herman Knickerbacker, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, John Love, Matthew Lyon, Vincent Matthews, Pleasant M. Miller, William Milnor, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Rhea of Tennessee, Samuel Ringgold, Lemuel Sawyer, John A. Scudder, Dennis Smelt, John Smith, John Stanley, James Stephenson, Lewis B. Sturges, Samuel Taggart, John Thompson, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Robert Witherspoon, and Robert Wright.

**NAYS**—Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, Burwell Bassett, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Barzillai Gannett, Gideon Gardner, Peterson Goodwyn, James Holland, Jacob Hufty, Walter Jones, Thomas Kenan, Aaron Lyle, Nathaniel Macon, Samuel McKee, William McKinley, Samuel L. Mitchell, Thomas Moore, John Nicholson, John Porter, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, Samuel Smith, Charles Turner, junior, Robert Whitehill, and Ezekiel Whitman.

The bill from the Senate, entitled "An act to incorporate the Bank of Washington," was read the third time as amended; and, on the question that the same do pass as amended, it was resolved in the affirmative—yeas 68, nays 19, as follows:

**YEAS**—Joseph Allen, Lemuel J. Alston, William T. Barry, Burwell Bassett, Daniel Blaisdell, James Breckenridge, John Campbell, William Chamberlin, Langdon Cheves, Martin Chittenden, Matthew Clay, William Crawford, Richard Cutts, John Davenport, jr., John Dawson, William Ely, James Emott, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, Daniel Heister, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Walter Jones, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, John Love, Matthew Lyon, Vincent Matthews, William Milnor, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Joseph Pearson, Timothy Pitkin, jr., John Porter, Josiah Quincy, John Rhea of Tennessee, Samuel Ringgold, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, James Stephenson, Samuel Taggart, John Thompson, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Kil-

lian K. Van Rensselaer, Laban Wheaton, Robert Witherspoon, and Robert Wright.

**NAYS**—Willis Alston, junior, Ezekiel Bacon, David Bard, Robert Brown, William Butler, Joseph Calhoun, Joseph Desha, Aaron Lyle, Nathaniel Macon, William McKinley, John Nicholson, Matthias Richards, John Roane, Erastus Root, Ebenezer Seaver, John Smilie, Henry Southard, Charles Turner, junior, and Robert Whitehill.

The bill to incorporate the Union Bank of Georgetown, was taken up.

A motion was made to adjourn, and lost—ayes 42, nays 43; the bill was then gone through, and passed—yeas 51, nays 41, as follows:

**YEAS**—Abijah Bigelow, John Campbell, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Davenport, jr., William Ely, James Emott, William Findley, Charles Goldsborough, Thomas R. Gold, Edwin Gray, Daniel Heister, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, John Love, Matthew Lyon, Vincent Matthews, Alexander McKim, William Milnor, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Joseph Pearson, John Porter, Elisha R. Potter, Josiah Quincy, John Rhea of Tennessee, Samuel Ringgold, Ebenezer Sage, John A. Scudder, Daniel Sheffey, Dennis Smelt, John Smith, Richard Stanford, James Stephenson, Lewis B. Sturges, Samuel Taggart, John Thompson, Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, and James Wilson.

**NAYS**—Joseph Allen, Willis Alston, junior, Burwell Bassett, Daniel Blaisdell, Robert Brown, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Nathaniel A. Haven, James Holland, Richard M. Johnson, Walter Jones, Thomas Kenan, Aaron Lyle, Nathaniel Macon, William McKinley, Samuel L. Mitchell, Thomas Moore, Gurdon S. Mumford, Thomas Newton, John Nicholson, Benjamin Pickman, jr., Matthias Richards, John Roane, Erastus Root, Ebenezer Seaver, John Smilie, George Smith, Charles Turner, junior, Robert Whitehill, Robert Witherspoon, and Robert Wright.

TUESDAY, February 12.

A message from the Senate informed the House that the Senate insist on their amendment disagreed to by this House to the bill, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes." They have passed the bill from this House, providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio, and to authorize the Register and Receiver of Public Moneys to superintend the public sales of land in the district east of Pearl river, with amendments. They have also passed a bill, entitled "An act in addition to an act, entitled 'An act to amend the Judicial System of the United States.'" To which amendments and bill they desire the concurrence of this House.

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*The Supreme Court.*

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A motion was made by Mr. LOVE, that the House do now proceed to consider a resolution submitted by him on the 19th ultimo; and the question being taken thereon, it was determined in the negative.

The House resolved itself into a Committee of the Whole on the bill for the relief of Peter Audrain. The Committee rose and reported the bill, which was ordered to a third reading.

The House resolved itself into a Committee of the Whole on the bill relative to the distribution of the laws, treaties, &c. The bill was reported with amendments, and ordered to a third reading.

The House resolved itself into a Committee of the Whole on the bill for establishing naval hospitals.

On the motion of Mr. BASSETT, the bill was amended in the first section, so as to appropriate \$50,000 out of the Navy Fund alone, to the purposes of the bill. The bill was reported as amended, and ordered to be engrossed for a third reading.

#### CORPS OF ENGINEERS.

The bill from the Senate, making further provision for the Corps of Engineers, was read.

[This bill goes to increase the corps, and leaves it discretionary with the President where to locate the academy.]

Mr. FISK moved a rejection of the bill. This motion was opposed by Mr. DESHA. At the suggestion of Mr. PITKIN, Mr. FISK gave way to a motion to refer the subject to a select committee. Mr. LOVE moved a reference to a Committee of the Whole. Mr. PORTER mentioned the committee on that part of the President's Message relative to the Military Academy. On these motions a debate arose. The bill was again read. Mr. LOVE's motion was lost—51 to 82—and the bill referred to the committee mentioned by Mr. PORTER.

#### THE SUPREME COURT.

The bill from the Senate, proposing to authorize the three Judges of the Supreme Court now present to hold a court, &c., was read.

Mr. RHEA, of Tennessee, said, the bill contained a principle which he never would agree to sanction. It will be found, if the law establishing the judicial courts be adverted to, that then, when there were only six justices or judges, four of them were necessary to constitute a quorum. This was a majority, indeed. This bill goes to authorize three Judges to hold the Supreme Court—a number less than a majority, inasmuch as there are now seven circuits in the United States, and of course there are or ought to be seven Judges. The bill contemplates an innovation which infringes the fundamental principle of majorities—a principle which never ought to be subverted, in relation to a Legislative or Judicial body. My objection to the bill is on principle—considerations foreign to that, affect me not. I therefore move that the bill be indefinitely postponed.

On this motion a discussion took place. Messrs. RHEA, QUINCY, SOUTHARD, BURWELL, GHOLSON,

TROUP, and MONTGOMERY, were in favor of the postponement; and Messrs. GOLD, PITKIN, LOVE, BACON, WRIGHT, LIVERMORE, and PICKMAN, opposed it.

In support of the motion for indefinite postponement, it was urged that it was introducing a new and important principle, changing the highest tribunal of the United States; that it was a law to be passed on the spur of the occasion, (for, unless passed this day, it could have no effect,) which was always an objectionable mode of proceeding; that it would furnish an excuse to the Judges for not attending; that it was establishing a precedent which might be productive of serious evils; for they need never hereafter expect to see a full bench, if Congress, who were in session when the court ought to meet, could be prevailed upon to pass a bill to excuse their attendance; and that the bill would operate unjustly on the citizens of the District, who had never appealed from a bench of three Judges in the District to a bench of three Judges of the Supreme Court. Messrs. MONTGOMERY and TROUP expressed a want of confidence in the court. The latter said, that five of the members of the court had, as far as they could, given away eighty millions of the public property, (in the Yazoo case,) and he would not confide such powers to a smaller number of judges.

Against the motion for indefinite postponement, it was said that three of the Judges had been here several days, and no others were expected; that they might proceed to decide on cases arising within the District of Columbia, which were important and pressing, and from a postponement of a decision on which great injury would arise; that there were also some very important cases which would suffer from delay, and which the parties would consent to have determined by these three Judges; that no injury could arise from such cases in which the parties had the option of deferring a decision till another year; that the Judges who were present were gentlemen of the highest character, in whom unlimited confidence might be placed, &c.

The question on indefinite postponement was taken, and decided in the affirmative—yeas 89, nays 23, as follows:

YEAS—Joseph Allen, Lemuel J. Alston, Willis Alston, jr., William Anderson, David Bard, William W. Bibb, Daniel Blaisdell, Adam Boyd, James Breckenridge, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Martin Chittenden, Matthew Clay, James Cochran, Orchard Cook, William Crawford, Richard Cutts, John Dawson, Joseph Desha, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, Daniel Heister, James Holland, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jr., Richard M. Johnson, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Matthew Lyon, Aaron Lyle, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Alex'r McKim, William McKinley, Pleasant M. Miller, John Montgomery, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Joseph Pearson, John Porter, Peter B. Porter, Josiah Quincy,

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John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, Jacob Swoope, John Thompson, Uri Tracy, Geo. M. Troup, Charles Turner, jr., Nicholas Van Dyke, Archibald Van Horn, Robert Whitehill, James Wilson, and Robert Witherspoon.

**YAYS**—Ezekiel Bacon, Burwell Bassett, Abijah Bigelow, John Campbell, John C. Chamberlain, William Chamberlin, John Davenport, jr., William Ely, Thomas R. Gold, William Hale, Nath'l A. Haven, Robert Jenkins, Edward St. Loe Livermore, John Love, William Milnor, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Lewis B. Sturges, Laban Wheaton, Ezekiel Whitman, and Robert Wright.

### WEDNESDAY, February 13.

Mr. Root, from the committee on that part of the President's Message respecting the militia reported "A bill more effectually to provide for arming and disciplining the militia of the United States."

The bill for the relief of Peter Audrain, the bill for establishing navy hospitals, and the bill, for disposing of certain copies of the laws, treaties, &c., relative to the public lands, were severally read a third time, and passed.

The bill from the Senate for the relief of Ebenezer Rollins, was twice read, and referred to the Committee of Commerce and Manufactures.

The bill for the removal of the land offices from Nashville, Tennessee, and Canton, Ohio, and authorizing the Register and Receiver of Public Moneys to attend the sale of lands in the district east of Pearl river, was returned from the Senate, with amendments, which were in part agreed to.

The House resolved itself into a Committee of the Whole, on the bill for establishing trading-houses with the Indian tribes; which was reported with amendments, and ordered to a third reading.

The House resolved itself into a Committee of the Whole, on the bill directing the Secretary of State to cause to be made a general index to the laws of the United States, and to be printed and distributed. The bill authorizes 10,000 copies. The bill was reported, and ordered to a third reading.

The House resolved itself into a Committee of the Whole, on the bill authorizing the sale and grant of a certain tract of public land to the Delaware and Chesapeake Canal Company.

Mr. FINDLEY spoke in favor of the bill, and Mr. MITCHELL against it; when the Committee rose and reported progress.

### TERRITORY OF ORLEANS.

On motion of Mr. MACON, the House considered the amendment of the Senate to the bill enabling the people of Orleans to form a constitution and State government, &c., which had been objected to by this House, and to which the Senate adhered. The amendment—the insertion of

the word "white"—confined the suffrage in the election of the convention to free "white" persons.

Mr. BASSETT moved that the House should recede from their determination to reject the amendment. Messrs. POINDEXTER, GHOLSON, MACON, SHEFFEY, and EPPES, were in favor of receding, and Messrs. SMILIE, DAWSON, FISK, and PICKMAN, opposed it.

The question was, on motion of Mr. PICKMAN, taken by yeas and nays—for receding 69, against it 45, as follows:

**YAYS**—Joseph Allen, Lemuel J. Alston, Willis Alston, jr., William Anderson, Burwell Bassett, William W. Bibb, Adam Boyd, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Bazzilai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, Philip B. Key, Robert Le Roy Livingston, John Love, Nathaniel Macon, Archibald McBryde, Samuel McKee, Pleasant M. Miller, John Montgomery, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, Joseph Pearson, Elisha R. Potter, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, John A. Scudder, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, George M. Troup, Charles Turner, jr., Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Weakley, Robert Witherspoon, and Robert Wright.

**NAYS**—Ezekiel Bacon, David Bard, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Robert Brown, John C. Chamberlain, William Chamberlin, William Crawford, John Davenport, jr., William Ely, James Emott, Jonathan Fisk, Thomas R. Gold, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Herman Knickerbacker, Aaron Lyle, Vincent Matthews, William McKinley, William Milnor, Samuel L. Mitchell, Jonathan O. Moseley, Benjamin Pickman, jr., John Porter, Josiah Quincy, John Rhea of Pennsylvania, Erastus Root, John Ross, Thomas Sammons, Lemuel Sawyer, Ebenezer Seaver, John Smilie, George Smith, Samuel Smith, Lewis B. Sturges, Samuel Taggart, John Thompson, Uri Tracy, Laban Wheaton, and Robert Whitehill.

The bill from the Senate, entitled "An act making a further distribution of such laws of the United States as respect the public lands," was read the third time, as amended, and passed.

### THURSDAY, February 14.

The bill more effectually to provide for arming and disciplining the militia of the United States, was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. WRIGHT, from the committee appointed on that part of the President's Message, at the commencement of the session, which relates to that part of West Florida acquired by the treaty of Louisiana, presented a bill for the establishment, government, and protection, of the Mobile

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Territory; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. ROOT, from the Committee of Claims, presented a bill for the relief of Lieutenant Simon Knight; which was read twice, and committed to a Committee of the Whole to-morrow.

On motion of Mr. GHOLSON,

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of making provision, by law, to enable the officers and soldiers of the Virginia line, (in the Revolutionary war,) on State establishment, their heirs, or assigns, to locate the warrants which they may hold for lands granted for military services, on lands within the limits of the territory reserved by the Commonwealth of Virginia for her Continental and State troops, according to the true intent and meaning of the fifth condition in the proposition of cession from Virginia to the United States, which fifth condition was acceded to by the United States; and that the said committee have leave to report by bill, or otherwise.

On motion of Mr. SEYBERT,

*Ordered*, That the memorial of the Philadelphia Chamber of Commerce, presented on the fourth of January, 1803, be referred to the Committee of the whole House on the bill to secure to vessels of the United States an equal advantage in exporting articles the growth or produce of the United States to foreign ports, and for other purposes.

Mr. SEYBERT, from the committee appointed on the eleventh instant, presented a bill making a further appropriation for the support of a library; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. EPPES, from the Committee of Ways and means, presented a bill providing for the more effectual accountability of persons intrusted with the expenditure of public moneys; which was read twice, and committed to a Committee of the Whole on Saturday next.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting sundry documents relative to the execution of the act passed at the last session, "making an appropriation for the purpose of trying the practical use of the torpedo, or submarine explosion;" which were read, and ordered to lie on the table.

The House resumed the consideration of the unfinished business of yesterday, and the question depending at the time of adjournment, to wit: "Shall the Committee of the whole House have leave to sit again on the bill from the Senate, entitled 'An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company,'" was again stated, and the question being taken, was determined in the negative.

An engrossed bill authorizing the Secretary of State to cause a general index of the laws of the United States to be made, printed, and distributed, was read the third time, and passed.

A message from the Senate informed the

House that the Senate have passed the bill, entitled "An act making appropriations for the support of Government, during the year one thousand eight hundred and eleven," with amendments. They have also passed a bill, entitled "An act to establish the districts of Mumphreymagog, of Oswegatchie, and of the White Mountains;" to which amendments and bill they desire the concurrence of this House.

A motion was made by Mr. EPPES, that the bill from the Senate, entitled "An act authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company," be recommitted to a Committee of the Whole House; and the question being taken, it was resolved in the affirmative.

Another motion was then made by Mr. EPPES, that the said bill be the order of the day for Saturday next; and the question being taken thereon, it was determined in the negative.

A motion was made by Mr. VAN DYKE, that it be the order for this day; and the question being taken, it was resolved in the affirmative.

The House then again went into a Committee of the Whole on the bill authorizing the sale and grant of a certain tract or parcel of public land to the Chesapeake and Delaware Canal Company.

Mr. EPPES moved to strike out the whole, and insert a clause providing for dividing between the several States, according to their population, a certain quantity of public lands, for the purposes of internal improvement.

Messrs. WRIGHT, KEY, ROSS, and VAN DYKE, opposed the striking out, and Messrs. EPPES, BOYD, McKIM, HOLLAND, and SOUTHARD, supported it.

The Committee rose, reported progress, and obtained leave to sit again.

#### FRIDAY, February 15.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to annex a part of the State of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewistown; to establish a new district, to be called the district of St. Lawrence; to make Cape St. Vincents, in the district of Sackett's Harbor, a port of delivery; and, out of the districts of Miami and Mississippi, to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes; which was read twice and committed to a Committee of the Whole to-morrow.

On motion of Mr. LIVERMORE, the memorial of sundry citizens of Newburyport, in Massachusetts, presented the twenty-eighth of January, was referred to the Committee of the whole House on the bill to secure to American vessels an equal advantage in exporting articles, the growth of the United States, to foreign ports.

Mr. MORROW, from the Committee on the Public Lands, made a report, in part, on the report of the Land Commissioners for the district of Kaskaskia, referred to them on the second ultimo;

which was read, and referred to the Committee of the Whole on Monday next.

Mr. P. B. PORTER, from the Committee to whom was referred the bill from the Senate, making further provision for the Corps of Engineers, reported it with amendments. Among others, the power of locating an academy is proposed to be taken from the President of the United States, and the academy fixed at Staten Island; the appropriation for buildings is raised from twenty-five to forty thousand dollars.

The amendments were read and referred to the Committee of the Whole.

#### REVISION OF PATENT LAWS.

Mr. BACON presented a petition of the Massachusetts Association for the encouragement of useful inventions, signed by Benjamin Dearborn, their President, praying a revision and amendment of the laws of the United States now in operation respecting patents for discoveries and inventions.—Referred to the Committee of the Whole on the bill for the encouragement of learning and the promotion of useful arts.

The memorial is as follows:

That, from long experience, they have found that the present patent laws are inadequate to the object proposed by them; that the penalties therein are not sufficient to protect the meritorious inventor from the avarice and rapacity of unprincipled men, who, in defiance of justice, openly invade the patents of their fellow-citizens with a confidence of impunity, from the impossibility of proving, by legal evidence, what damage the injured party has sustained.

That this law, intended to promote and protect improvements in the arts, is illusive; that, under its supposed protection, men of genius have been induced to devote the best portion of their lives and fortunes in making improvements in various machines, by which some branches of manufacture have even rivalled all other nations; and that, to his great vexation and disappointment, the ingenious artisan discovers that *his* is the only property in the United States which is not protected by the laws.

That there are persons associated and combined for the purpose of clandestinely procuring machines in magnitude, models, drawings, and specifications, of the most useful American inventions, and transmitting them to Europe, and there obtaining patents for the same, without the concurrence, or even the knowledge of the American patentee. The easy access to the patent department facilitates their views in this nefarious traffic.

That many valuable American discoveries have thus been pirated, sent to Europe, and there patented and published as European inventions, to the manifest injury of the true inventor, and derogatory to the honor and interest of the United States.

That property, to an immense amount, is already vested in patented machinery, and employed in various manufactures; but the unprotected state of the rights of patentees, and proprietors, will naturally and necessarily deter men of genius and property from further perseverance in improvements unless they are permitted to enjoy the fruits of their labors.

In stating the preceding facts, your memorialists have adverted to but two of the many inconveniences arising from the want of due provisions in the present

laws; and they do most earnestly entreat that such remedies may be adopted as shall appear consistent with the true policy of a nation whose Government is actuated by just principles of honor, interest, and dignity. With these views, they beg leave to suggest the following observations as the basis of amendments to the present laws, calculated to remove some of the difficulties which experience has evinced as obstructing the beneficial design of the patent laws, viz:

1st. That any person who shall violate a patent by making, using, vending, or unlawfully having and keeping in his possession the thing or machine, or any part thereof so patented, shall, as well as his aiders and abettors, forfeit each and every one of them all such things, machine, or parts thereof, and three times the actual damage sustained by the injured party, which triple damage shall in no case be less than three times the value or price of the thing, machine, or part thereof, at which the injured party has sold, or offered for sale, or has licensed the same, or offered to license the same for use; to be recovered by action of the case in the circuit court in the district where the offence is committed.

2d. That, during the patent term, all persons, except the patentee or his assigns, be prohibited, under the same penalties and forfeitures as aforesaid, from exporting out of the country any machine, or thing, or parts thereof, or model or models thereof, or of any parts thereof, or of any drawings thereof, or of any part thereof which have been patented, without permission first had and obtained in writing from the patentee or his assigns, in case such assigns shall have obtained in such assignment the right of exporting the same out of the country.

3d. That no copies of specifications, drawings, or other papers, filed as evidences of an invention, or copies of models, or any part thereof deposited in the Patent Office, be allowed to be taken from said office, during the term of the patent, except by the patentee, his heirs or assigns, unless such copies be material to an issue in a court of law; and in such case the party, other than the patentee or his assigns, applying for the same, shall make oath before the judge of the said court, that such copies are material to such issue, and that he requires them for that purpose only; and the said judge shall record such oath, and certify the same in the application for such copies; and that all models, specimens, drawings, specifications, and other papers filed in said office, as evidence of an invention or improvement of any machine or thing patented, be kept from the view and inspection of the public until the patent or patents granted therefor shall have expired.

4th. That, on application being made for a patent, a critical examination shall be made to ascertain whether any patent has been previously granted for any machine or thing which would interfere with the machine or thing, for which a patent is prayed for, and whether the interference is material, and whether the application of parts, principles, and powers, are alike in a patentable point of view, in order that a patent may not be granted for a machine or thing already patented, or which essentially or materially interferes with it.

5th. That, on application being made for information whether a patent has been granted for the machine, thing, or improvement, which the applicant describes in his application as being his invention, and which he intends to have patented, provided it does not interfere with any machine or thing already patented, a critical



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*The Militia.*

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examination shall be had, and a true answer given to such applicant, and for which he shall pay the sum of (say five dollars.) And the description, specification, and drawings filed by the applicant for such information, shall be signed and sealed by him in the presence of two subscribing witnesses; and he shall also make oath to the same in the same manner as is provided in the case of applying for a patent.

6th. That the person applying for information as aforesaid, or any other person, who shall produce a specification and drawings of his invention and improvement, duly witnessed and certified, as is provided in case of application for a patent, and signifying his desire of obtaining a patent therefor, and that further time is necessary to enable him to perfect his said invention or improvement; such specifications and drawings, with written references thereto, may be filed in the Patent Office, as evidences that such person is the first inventor or discoverer thereof, in case, on such critical examination as aforesaid, that should be found to be the fact; and the same shall operate as a caveat against the other applicants for that machine, thing, or improvement, as the case may be, for one year from the time of filing the same; and a certificate to that effect shall be granted accordingly, and for which he shall pay the sum of (say ten dollars.) And when the person filing such caveat shall make application for his patent, he shall furnish a new specification and drawing, comprising all the improvements made in his said invention or discovery.

7th. That the most improved European or other treatises and publications on the improvement in the arts, sciences, and manufactures, shall, from time to time, as they are published, be procured, and kept in the patent department, in order that ready information may be had whether the thing, machine, improvement, or discovery, for which a patent may be applied for, has been previously known and published in this or any other country.

8th. That any patentee, or his assigns, or any person or persons being legally interested therein, knowing, or having good reason to suspect, any person or persons to be secretly violating their patent, by making, using, or having unlawfully in their possession the thing, machine, or any parts thereof so patented, may, on oath, made before the judge of the district court in the district where such offence is committed, and filing a statement thereof, obtain a writ of injunction commanding such suspected person or persons, their aiders and abettors, to desist from such violation; which writ of injunction shall be served on such suspected person or persons, their aiders and abettors, to appear before said judge at the time and place appointed; and in case of their default or non-appearance, the said judge shall forthwith order a *capias* against them, to be served and returned at such time and place as he shall direct; and if, in either case, on examination, the judge shall find that the complaint is well founded, he shall make the writ of injunction absolute, and order such violators to pay the costs, and give bond in an adequate sum, with sufficient securities to the party injured, to be forfeited, and the penalties therein recovered in a court of law, in case such injunction shall not be obeyed by the parties jointly and severally on whom such injunction is laid; but if such complaint should prove not well founded, the judge may order the complainants to pay the costs, unless it should appear that there was reasonable ground therefor; and, in such case, shall decide as to justice rightly appertains.

9th. That, if the thing or machine patented shall not be put into operation, or publicly offered for sale within five years from the date of the patent, the said patent shall, on the expiration of said five years, in such case be, *ipso facto*, null and void, and the thing thus patented become the property of the public.

10th. That the specific application of the specific parts, principles, and machine powers to the specific purpose fully explained, be in law considered as constituting the invention only; and that mere principles, mechanic powers, circumstances or effects in themselves, cannot be the subject of a patent.

11th. That patents for any useful inventions or discoveries may be renewed, for another term of fourteen years, on application being made for that purpose, containing all the improvements made by the patentee, his heirs and assigns, properly described; which application shall be made to the Secretary of State in the same manner as an original application for a patent, *mutatis mutandis*. And of the great utility of such invention, and of the intention of renewing the patent therefor, the patentee, his heirs or assigns, as the case may be, shall give notice to the Secretary of State — months before the expiration of the first patent, and to his approbation; and, on obtaining such second patent, the patentee shall give the public notice thereof in some public newspaper or newspapers.

12th. That the patentee may assign parts of his patent, and thereby granting the exclusive right of said patent for any particular district of country.

13th. That, for repealing any patent or patents surreptitiously obtained, or upon false suggestion, the process to be brought within three years, and the hearing had before the judges of the circuit court in the district where the patentee or his assigns reside, and not before the district court.

14th. That when an original inventor, his heirs or assigns, shall make any modification or improvement in the thing or machine patented during the first patent term, he or they, as the case may be, may file a specification and drawings thereof, showing the application of such improvement or modification on the original invention; which specification shall be executed, witnessed, sworn to, and certified in the same manner as in an original application for a patent; and, on his obtaining a certificate therefor from the Secretary of State, setting forth that such improvement or modification as specified, shall thereafter be considered as patented, and belonging to and forming a part of, the said original patent, so far as it respects the improvement or modification, to the person legally obtaining such certificate, and having a legal interest at the time in the original invention; and for every such certificate, the party obtaining the same, shall pay the sum of (say fifteen dollars,) and as, &c.

By order of the association:

BENJAMIN DEARBORN, *President*.

JOHN FAIRBANKS, *Secretary*.

Boston, January 31, 1811.

#### THE MILITIA.

Mr. COCHRAN submitted the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for detaching by quotas militia, to be armed by the United States, to be held in readiness for service for a limited time, and that the committee have leave to report by bill or otherwise.

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Claim of General St. Clair.

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Mr. PITKIN wished to learn the motive of introducing this resolution.

Mr. COCHRAN said it was grounded on the recommendation of the President of the United States at the last session, and a reference to it in his Message of this year. He thought, also, that it was not proper to wait for the approach of war before we attempt to prepare for it.

Messrs. PITKIN, QUINCY, POTTER, and EPPES, were opposed to the resolution; and Messrs. COCHRAN, ROOT, BASSETT, and BACON, in favor of it.

Against the resolution, it was said that the adoption of such an one in the present circumstances of the country would excite uneasiness in the nation; that, taken in connexion with the sitting with closed doors, it would excite alarm and an apprehension of some latent evil; that the gradual arming the nation was already provided for by law—and it had already been ascertained by experience that no mode of arming the whole body of the militia of the United States could ever receive the concurrence of a majority of the members of the House.

In the support of it, its friends observed that it was a mere resolution of inquiry, from which no ill effects could result; that it fixed no details, leaving them altogether to the consideration of a committee, who would report a bill to the House if they thought proper; that the present deficiency of arms called loudly for such a measure, so necessary to the general defence.

Mr. BACON wished it adopted, on account of recent reports from the Floridas, of the standard of opposition having advanced against the American forces; and

On motion of Mr. POTTER, it was ordered to lie on the table.

#### GENERAL ST. CLAIR'S CLAIM.

On motion of Mr. QUINCY, the House resolved itself into a Committee of the Whole, on the bill for the relief of Arthur St. Clair.

Messrs. QUINCY, CLAY, FINDLEY, MOSELEY, WRIGHT, and LYON, were in favor of the bill, and Messrs. STANFORD, ROOT, W. ALSTON, and MONTGOMERY, were against it.

The Committee rose and reported the bill.

Mr. ROOT moved to strike out the whole section of which the bill was composed. For striking out 37, against it 51, as follows:

YEAS—Willis Alston, jun., Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, James Cochran, Richard Cutts, William Ely, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Peterson Goodwyn, Jacob Hufty, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Samuel L. Mitchell, John Montgomery, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Henry Southard, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, and Robert Whitehill.

NAYS—Abijah Bigelow, Daniel Blaisdell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Orchard Cook, John Davenport, jun., James Emott, John

W. Eppes, William Findley, Thomas R. Gold, Edwin Gray, William Hale, Daniel Heister, Ebenezer Huntington, Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, John Love, Matthew Lyon, Vincent Matthews, William McKinley, Pleasant M. Miller, William Milnor, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Thomas Newton, John Nicholson, Benjamin Pickman, jr., Elisha R. Potter, Josiah Quincy, Dennis Smelt, George Smith, Samuel Smith, James Stephenson, Lewis B. Sturges, Samuel Taggart, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, Richard Winn, Robert Witherspoon, and Robert Wright.

The bill was then ordered to a third reading.

On motion of Mr. NEWTON, the House resolved itself into a Committee of the Whole, on the bill for issuing debentures in certain cases. For want of a quorum, the Committee rose, and the House adjourned.

#### SATURDAY, February 16.

The bill for the relief of Arthur St. Clair was read a third time.

Mr. ROOT moved to recommit the bill to a Committee of the Whole, in order to strike out the words of the bill and insert a section directing an inquiry into, and settlement of any unliquidated accounts of General St. Clair. Messrs. WRIGHT, CLAY, and GHOLSON, opposed the motion, and Messrs. ROOT, HOLLAND, and ALSTON, advocated the motion.

The motion was carried—43 to 42.

The House resolved itself into a Committee of the Whole, Mr. BASSETT in the Chair, on the amendments of the Senate to the bill making appropriations for the support of Government for the year 1811; which were concurred in by the Committee and the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled 'An act to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation; to which they desire the concurrence of this House.

Ordered, That the amendments made by the Senate to the bill, entitled "An act making appropriations for the support of Government, during the year 1811," be committed to a Committee of the whole House this day.

The bill from the Senate, entitled "An act to establish the districts of Mumphyre magog, Oswegatchie, and of the White Mountains," was read twice, and committed to a Committee of the Whole.

The bill from the Senate, entitled "An act to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation," was read twice, and committed to a Committee of the Whole on Monday next.

A Message was received from the President of the United States, transmitting the treaty concluded on the tenth of November, on the part of the United States, with the Great and Little Osage tribes of Indians, with a view to such legal provisions as may be deemed proper for fulfilling

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*Repeal of Drawbacks.*

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its stipulations.—The Message was read, and referred to the Committee of Ways and Means.

On motion of Mr. LEWIS, the Committee of the whole House were discharged from the consideration of the bill from the Senate, entitled "An act to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation."

The House resolved itself into a Committee of the Whole on the report of a select committee of the eleventh instant, on a letter from William Lambert, respecting precedents of order; and, after some time spent therein, the Committee rose and reported their agreement to the resolutions therein contained, amended to read as follows:

*Resolved*, That there be printed, for the use of Congress, five hundred copies of William Lambert's collection of precedents of order, contained in two numbers, under the heads of—1. Proceedings on questions of order and appeal; 2. Disagreeing votes of the two Houses on bills, &c. Omitting all editorial remarks and strictures, and adding the cases of order occurring this session. The printing to be paid out of the contingent fund of this House.

*Resolved*, That the work, when finished, be deposited in the Library, and that each member of Congress, whilst it is in session, be entitled to a copy, giving a receipt, and returning the book at the end of the session.

*Resolved*, That William Lambert, for making this collection, paging the references, superintending the printing, and preparing the index, ought to be paid five hundred dollars out of the contingent fund; and that the Clerk be authorized to pay him in advance for such portion of the work as is completed.

The House proceeded to consider the resolutions, and the same being again read, were concurred in by the House.

#### REPEAL OF DRAWBACK.

Mr. GARLAND submitted the following resolution:

*Resolved*, That it is expedient to repeal the several laws allowing drawback on goods, wares, and merchandise, of the growth, produce, or manufacture of foreign nations.

A motion was made by Mr. GARLAND, to refer it to a Committee of the Whole.

Messrs. QUINCY, WRIGHT, MITCHILL, and NEWTON, were opposed to reference and to the resolution. Messrs. GARLAND and SMILIE spoke in favor of it.

It was contended by its opponents that the adoption of this resolution, and a subsequent destruction of the drawback system, would operate greatly to the injury of the agricultural as well as commercial interests of the country.

By the advocates of the resolution, it was said, that this system of drawbacks was a tax upon the nation, merely to favor extraneous commerce; that it was not calculated in any wise to benefit the agricultural interests of our country; that instead of adding anything to the support of the expenses connected with foreign commerce, it scarcely paid the expenses of the custom-houses.

The question to refer the motion was carried—ayes 64.

A motion was made by Mr. WRIGHT, to make it the order of the day for the third of March—lost, ayes 51, noes 53.

A motion was made by Mr. GARDENIER, to make it the order of the day for the 25th of February, and the ayes and noes called.

Mr. MACON thought, when a majority of the House had evinced a determination to consider a subject, that these motions for evading the question were improper; and Mr. CHEVES, Mr. WRIGHT, and Mr. HOLLAND, spoke in favor of Mr. GARDENIER's motion.

Mr. HUNTINGTON moved the second of March as the day for which the subject should be made the order.

Mr. QUINCY, Mr. CHEVES, and Mr. GARDENIER, supported the motion. Mr. BURWELL was in favor of an earlier day.

The question of postponement to the second of March, was decided by yeas and nays, as follows:

YEAS—Joseph Allen, William Anderson, Ezekiel Bacon, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William Butler, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, Orchard Cook, Richard Cutts, John Davenport, jr., John Dawson, William Ely, James Emott, John W. Eppes, Barzillai Gannett, Barent Gardenier, Gideon Gardner, Thomas Gholson, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Thomas Kenan, William Kennedy, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Alexander McKim, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Adam Seybert, Dennis Smelt, John Stanley, Lewis B. Sturges, Samuel Taggart, John Thompson, Uri Tracy, George M. Troup, Charles Turner, junior, Nicholas Van Dyke, Kiltian K. Van Rensselaer, Laban Wheaton, James Wilson, Richard Winn, and Robert Wright—76.

NAYS—Lemuel J. Alston, Willis Alston, jun., David Bard, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Joseph Desha, William Findley, Meshack Franklin, David S. Garland, Charles Goldsborough, Peterson Goodwyn, James Holland, Jacob Hufty, Walter Jones, John Love, Aaron Lyle, Nathaniel Macon, William McKinley, John Montgomery, Thomas Moore, Jeremiah Morrow, John Nicholson, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Seaver, John Smilie, Geo. Smith, John Smith, Samuel Smith, Henry Southard, Jacob Swoope, Archibald Van Horn, Robert Weakley, Robert Whitehill, Ezekiel Whitman, and Robert Witherspoon—45.

MONDAY, February 18.

The SPEAKER laid before the House a resolution of the Legislature of the State of Ohio, "approv-

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National University.

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ing the measures of the General Government;" which was read, and ordered to lie on the table.

Mr. MILLER said, that in submitting the following resolution, it was far from his intention to express a want of confidence in the Administration. He said that the arrival of the French Minister in this country was so recent, that it would perhaps hardly be decorous in the President to ask him for information respecting the Berlin and Milan decrees. He therefore would submit a resolution, which went to ask information from the President, and would afford him an excuse for demanding this information from the French Minister. He had another view in submitting this resolution. Should no satisfactory information be received, he then intended to move the repeal of the non-intercourse laws. He then submitted the following resolution, which was agreed to:

*Resolved*, That the President of the United States be requested to lay before this House any information, (not heretofore communicated, and that, in his opinion, is proper to be disclosed,) which he may have, touching the legal repeal, or modification, as well as the practical operation, of the orders and decrees affecting our neutral commerce, since the first day of November, 1810.

Mr. MILLER and Mr. SAWYER were appointed a committee to present the foregoing resolution to the President.

Mr. P. B. PORTER presented a memorial of William Morrison, John Edgar, and Robert Morrison, of Kaskaskia, in the Illinois Territory, by John Rice Jones, their attorney in fact, complaining of the "illegal and oppressive" decisions of the Land Commissioners for the District of Kaskaskia, and praying that the said commissioners may be removed from office, and that others may be appointed to supply their places, with power to revise the decisions of the commissioners aforesaid.—Referred to the Committee on the Public Lands.

Mr. NEWTON, from the Committee of Commerce and Manufactures, made a favorable report on the petition of John Macnamara, referred the sixth instant; which was read, and concurred in by the House: when, Mr. NEWTON, from the same committee, presented a bill for the relief of John Macnamara; which was read twice, and ordered to be engrossed, and read the third time to-morrow.

The House proceeded to consider the bill from the Senate, entitled "An act to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation:" Whereupon, the bill was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill for issuing debentures in certain cases. This bill was reported, unamended, and passed to a third reading.

The House went into a Committee of the Whole on the bill for erecting a light-house on Boone Island, placing buoys near Cape Fear river, North Carolina, and at Edgartown, Massachusetts, and erecting a column on Cape Elizabeth, Massachusetts. This bill was reported with

amendments, which were concurred in, and the bill ordered to a third reading.

#### NATIONAL UNIVERSITY.

Mr. MITCHELL, from the committee appointed on that part of the President's Message, at the commencement of the session, which relates to the establishment of a seminary of learning by the National Legislature, made a report; which was read, and ordered to lie on the table.

The report is as follows:

In obedience to the order of the House, the committee has duly considered the important matter referred.

A university, or institution for the communication of knowledge in the various departments of literature and science, presents to the mind, at one view, subjects of the most pleasing contemplation.

To a free people it would seem that a seminary, in which the culture of the heart and of the understanding should be the chief objects, would be one of the best guards of their privileges, and a leading object of their care.

Under this conviction, the patriotic spirit of Washington led him more than once to recommend, in his speeches to Congress, an attention to such an undertaking. He even bequeathed a legacy to the national university, which he persuaded himself would, at some day, be brought into being. Two other Presidents have subsequently presented the subject to the Legislature as worthy of especial consideration.

Authorities so respectable, in favor of a project so desirable, carry with them great weight. A central school at the seat of the General Government, darting the rays of intellectual light, or rolling the flood of useful information throughout the land, could not fail to make a strong impression. A noble and enlarged institution may be conceived to impart to its pupils the most excellent instruction, and, by properly qualifying persons to be teachers and professors, to introduce a uniform system of education among the citizens.

On weighing these and other advantages, it was necessary to consider whether Congress possessed the power to found and endow a national university.

It is argued, from the total silence of the Constitution, that such a power has not been granted to Congress, inasmuch as the only means by which it is therein contemplated to promote the progress of science and the useful arts, is, by securing to authors and inventors the exclusive right to their respective writings and discoveries for limited times. The Constitution, therefore, does not warrant the creation of such a corporation by any express provision.

But it immediately occurred that, under the right to legislate exclusively over the district wherein the United States have fixed their seat of Government, Congress may erect a university at any place within the ten miles square ceded by Maryland and Virginia. This cannot be doubted.

Here, however, other considerations arise. Although there is no Constitutional impediment to the incorporation of trustees for such a purpose, at the City of Washington, serious doubts are entertained as to the right to appropriate the public property for its support. The endowment of a university is not ranked among the objects for which drafts ought to be made upon the Treasury. The money of the nation seems to be reserved for other uses.

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*Claim of Lieutenant Knight—Call for Letters.*

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The incorporation of a university, without funds, appears a fruitless and inefficient exercise of the legislative power. There is, indeed, some personal estate on hand, which would vest in such a body on the moment of its creation; and more may reasonably be expected from legacies and other donations. But these sources of revenue are too scanty and precarious to be relied upon in the present case. It is better not to legislate at all, than to pass a statute destitute of the means of execution.

The matter then stands thus: The erection of a university, upon the enlarged and magnificent plan which would become the nation, is not within the powers confided by the Constitution to Congress; and the erection of a small and ordinary college, with a pompous and imposing title, would not become its dignity. If, nevertheless, at any time legislative aid should be asked to incorporate a district university, for the local benefit of the inhabitants of Columbia, and of funds of their own raising, there can be no doubt that it would be considered with kindness, as in other cases; but it must be remembered that this is a function totally distinct from the endowment of a national university, out of the treasure of the United States, destined, in its legitimate application, to other and very different purposes.

The message before the committee proposes, however, "the institution of a seminary of learning by the National Legislature, within the limits of their exclusive jurisdiction, the expense of which may be defrayed or reimbursed out of the vacant grounds which have accrued to the nation within these limits." On inquiring into the value of these public lots, they fall so far short of the sum requisite for the object, that, if there was no Constitutional impediment, they could not be relied upon, on account of the smallness and unproductiveness of the capital they embrace.

With these views of the subject, the Committee does not find itself authorized to recommend the adoption of any measures relative to that part of the Message referred.

#### CLAIM OF LIEUTENANT KNIGHT.

The House went into a Committee of the Whole on the bill for the relief of Lieutenant Simeon Knight. This bill authorizes the allowance to Lieutenant Knight of the sum of one thousand four hundred and fifty dollars and forty cents, which were paid by him (as paymaster) to General Wilkinson as an allowance for extra rations, while commander of a separate post. This act had not been passed by the accounting officers at the Treasury Department, although the money was paid under the sanction of the Attorney General's opinion and the late Secretary of War.

Mr. POINDEXTER moved an amendment to prevent this law being introduced as an authority for the commanders in chief to claim extra rations in future.

Messrs. GOLDSBOROUGH, STANLEY, PEARSON, and MACON, were opposed to the principle of the bill and the amendment, though in favor of the equity of the petitioner's claim.

Messrs. POINDEXTER, ROOT, BACON, WRIGHT, and HOLLAND, spoke in favor of the bill.

The question on Mr. POINDEXTER's amendment was lost—yeas 25.

Mr. GOLDSBOROUGH moved an amendment so as to make the word "erroneously" follow the appropriation, applying that term to the payment of the money by Lieutenant Knight to General Wilkinson.

Messrs. MCKIM, BACON, ROOT, and WRIGHT, opposed this amendment; and Messrs. GOLDSBOROUGH and STANLEY advocated it. The motion was negatived.

Mr. STANLEY then moved to amend the bill so as to direct the Comptroller to commence a suit against General Wilkinson for the amount of money received by him from Lieutenant Knight.

Messrs. ROOT and WRIGHT opposed the motion; and Messrs. STANLEY and LYON were in favor of it.—Negatived, yeas 27, nays 58.

The Committee rose and reported the bill without amendment; which report was concurred in, and the bill ordered to a third reading.

#### TUESDAY, February 19.

A motion was made by Mr. LOVE that the House do come to the following resolution:

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what, parts of the act of Congress, passed the twenty-fifth of February, 1791, entitled "An act to incorporate the subscribers to the Bank of the United States," will continue to be in force after the third day of March next, in case the charter of that bank company is not renewed; and, in that event, what remedy it may be necessary to provide for the creditors of the said bank; and that the committee have leave to report by bill, or otherwise.

And the question being taken that the House do now proceed to the consideration thereof, it was determined in the negative—yeas 30, nays 41.

A Message was received from the President of the United States, transmitting a return of the militia of the United States, as received by the Department of War from the several States and Territories.—Ordered to lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported unfavorably on the petition of William Patterson and sons, merchants of Baltimore. They pray to be allowed to re-enter the custom-house duties on a large quantity of coffee and sugar imported in 1807, previous to the existence of the embargo.

Mr. MCKIM moved that the resolution of the committee be negatived.

On this subject a discussion arose, in which Messrs. MCKIM, WRIGHT, BURWELL, and VAN DYKE, advocated the rejection of the report, and Messrs. NEWTON and QUINCY opposed it.

The report was concurred in.

A Message was received from the President of the United States in conformity to the resolution of yesterday; it was accompanied by sundry documents, of which three thousand copies were ordered to be printed.

#### CALL FOR LETTERS.

Mr. PITKIN observed, that several translations had been presented to the public eye of the French letters from the Duc de Massa and the

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Duc de Gaete, concerning the Berlin and Milan decrees, varying in several important passages. He was desirous of seeing the originals, that, among such different interpretations, the House might decide for itself; and therefore moved that the House do come to the following resolution:

*Resolved*, That the President of the United States be requested to cause to be laid before this House, copies, in French, of the letters of the Duke de Cadore to General Armstrong, of the 5th of August, of the 7th and 12th of September, Anno Domini, 1810, also, like copies of the letters of the Grand Judge to the President of the Council of Prizes, and of the Minister of Finance to the Director General of the customs, both dated December twenty-fifth, 1810, concerning the Berlin and Milan decrees.

This resolution was opposed by Messrs. RHEA of Tennessee, SMITH, and MILLER, and advocated by Messrs. PITKIN, LYON, and GOLDSBOROUGH.

The question was decided by yeas and nays—for the call 44, against it 67, as follows:

YEAS—Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Chas. Goldsborough, Thomas R. Gold, William Halo, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loë Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Mosley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Randolph, Adam Seybert, Richard Stanford, John Stanley, Lewis B. Sturges, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, Adam Boyd, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Walter Jones, William Kennedy, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Thomas Moore, Jeremiah Morrow, Gordon S. Mumford, Thomas Newbold, John Porter, Peter B. Porter, John Ren of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, John Smith, Henry Southard, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

WEDNESDAY, February 20.

On motion of Mr. BACON,

*Resolved*, That the several witnesses summoned by the committee appointed to inquire into the conduct of Brigadier General James Wilkinson, and by the committee appointed to inquire into

the cause or causes of the great mortality in that detachment of the Army ordered for the defence of New Orleans, shall be allowed for every day's attendance on said committees the sum of three dollars, and also at the rate of twelve and a half cents for every mile they shall necessarily travel in coming to the City of Washington, and in returning to their usual place of residence; and that the messengers employed to summon any of the said witnesses, or to execute warrants from said committees, be allowed and paid the same rate of mileage, and three dollars for each day's necessary detention out of the City of Washington, in addition to the time when they were engaged in performing the aforesaid travel; and the sums so allowed shall be paid by the Clerk out of the contingent fund of this House, on orders or certificates drawn in favor of such messengers or witnesses, by the chairmen of the respective committees aforesaid: *Provided*, That no witness who was in the City of Washington at the time of being summoned, shall be entitled to receive any allowance for mileage.

Mr. DAWSON, from the committee appointed on that part of the President's Message, at the commencement of the session, which relates to the fortifications and land forces of the United States, reported, in part, a bill authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding fifty thousand men; which was read twice and committed to a Committee of the Whole on Saturday next.

The bill to erect a light-house on Boone Island, Maine, placing buoys near Cape Fear, North Carolina, and near Edgartown, Massachusetts erecting a beacon on New Inlet, North Carolina, and erecting a column of stone on Cape Elizabeth, Massachusetts, was read a third time and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making further provision for the disposal of the sections of land heretofore reserved for the future disposition of Congress;" to which they desire the concurrence of this House.

#### CLAIM OF LIEUT. KNIGHT.

The House proceeded to consider the bill for the relief of Lieutenant Simeon Knight; when a motion was made by Mr. PITKIN, and seconded, to amend the same, by adding to the end thereof the following:

"*Provided, however*, That nothing in this act contained is intended, or shall be construed, to admit or sanction the right or claim of the said Brigadier General James Wilkinson, to an allowance for extra rations, in any case whatever, or in any way to exempt him from being accountable to the United States for the said sum of one thousand four hundred and fifty-four dollars and forty cents, paid to him by the said Simeon Knight, as aforesaid."

A debate took place on this motion. The motion was opposed by Messrs. ROOT, WRIGHT, RHEA of Tennessee, and NEWTON, and supported by Messrs. PITKIN, PICKMAN, TALLMADGE, LYON, POINDEXTER, MILNOR, and STANLEY. As on a

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former occasion, the right of a Brigadier General to receive extra rations, as commandant of a separate post, was denied on the one hand and maintained on the other.

The question on the amendment was decided in the affirmative—yeas 62, nays 45, as follows:

**YEAS**—Joseph Allen, Ezekiel Bacon, Burwell Bassett, Abijah Bigelow, Daniel Blaisdell, William Butler, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, James Cochran, Orchard Cook, John Davenport, jr., William Ely, David S. Garland, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Daniel Heister, William Helms, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Thomas Kenan, William Kennedy, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, John Ross, Thomas Sammons, Adam Seybert, Dennis Smelt, Samuel Smith, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, James Wilson, and Robert Witherspoon.

**NAYS**—Willis Alston, jr., William Anderson, David Bard, Adam Boyd, Robert Brown, Joseph Calhoun, Matthew Clay, William Crawford, William Findley, Barzillai Gannett, Gideon Gardner, Thomas Gholson, James Holland, Jacob Hufty, John Love, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, John Montgomery, Gideon S. Mumford, Thos. Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, John Smith, Henry Southard, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Whitehill, and Robert Wright.

The bill passed to a third reading—yeas 59, nays 29.

#### DEBENTURES.

The bill for issuing debentures in certain cases was read a third time.

Mr. HOLLAND moved an indefinite postponement of the bill.

Mr. BACON was in part opposed to the bill, and said he should therefore move a recommitment of the bill if the motion of Mr. HOLLAND did not succeed. Mr. RHEA, of Tennessee was opposed to the bill. Messrs. MUMFORD and NEWTON spoke in favor of it.

From want of a quorum (many of the members attending the interesting debate progressing in the Senate) the House adjourned, 38 to 28.

THURSDAY, February 21.

The bill from the Senate, entitled "An act making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress," was read twice, and

committed to the Committee on the Public Lands.

Mr. LYON presented a petition of sundry inhabitants of the Illinois Territory, praying that the pre-emption right to certain lands may be granted to them, together with an in and an out lot of the town of Shawney, in said Territory.—Referred to the Committee on the Public Lands.

Mr. EPPES, from the Committee of Ways and Means, presented a bill making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clark, on the tenth day of November; which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. EPPES, from the same committee, also presented a bill repealing the tenth section of the "Act to incorporate the subscribers to the Bank of the United States;" which was read twice, and committed to a Committee of the Whole on Saturday next.

Mr. EPPES, from the same committee, also presented a bill allowing additional compensation to the Postmaster General; which was read twice, and committed to a Committee of the Whole on Saturday next.

The SPEAKER laid before the House a report of the Secretary of the Treasury, in pursuance of the resolutions of this House, of the twenty-fourth and twenty-seventh of December last, concerning certain bills of exchange drawn on Degen, Purviance, and Company, Navy Agents at Leghorn; which was read, and, together with a report on the same, made at the present session of Congress, by the Secretary of the Navy, referred to a select committee.

Mr. SWOOPE, Mr. MCKIM, Mr. TURNER, Mr. CHITTENDEN, and Mr. SMILIE, were appointed the said committee.

#### RETURNED BILL.

A Message was received from the President of the United States, by Mr. Edward Coles, his Secretary, who, by command of the President, returned to the House the bill passed by the two Houses, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," and presented to the President for his approbation and signature, on Thursday the fourteenth instant, to which bill the President having made objections, the same were also delivered in, by the said Secretary, who then withdrew.

The objections were read, and ordered to be entered at large on the Journal, as follows:

*To the House of Representatives of the United States:*

Having examined and considered the bill, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," I now return the bill to the House of Representatives, in which it originated, with the following objections:

Because the bill exceeds the rightful authority to which Governments are limited, by the essential distinction between civil and religious functions, and vio-

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lates, in particular, the article of the Constitution of the United States, which declares, that "Congress shall make no law respecting a religious establishment." The bill enacts into, and establishes by law, sundry rules and proceedings relative purely to the organization and polity of the church incorporated, and comprehending even the election and removal of the Minister of the same; so that no change could be made therein by the particular society, or by the general church of which it is a member, and whose authority it recognises. This particular church, therefore, would so far be a religious establishment by law; a legal force and sanction being given to certain articles in its constitution and administration. Nor can it be considered, that the articles thus established are to be taken as the descriptive criteria only of the corporate identity of the society, inasmuch as this identity must depend on other characteristics; as the regulations established are generally unessential, and alterable according to the principles and canons, by which churches of that denomination govern themselves; and as the injunctions and prohibitions contained in the regulations, would be enforced by the penal consequences applicable to a violation of them according to the local law:

Because the bill vests in the said incorporated church an authority to provide for the support of the poor, and the education of poor children of the same; an authority which being altogether superfluous, if the provision is to be the result of pious charity, would be a precedent for giving to religious societies, as such, a legal agency in carrying into effect a public and civil duty.

JAMES MADISON.

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Mr. BASSETT suggested the reference of the Message to a select committee.

The SPEAKER conceived that the article on the Constitution on this subject required that the House should proceed to a reconsideration of the bill.

On motion of Mr. PITKIN, the House proceeded to reconsider the bill.

The Message was again read, as also was the following clause of the Constitution:

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of that House, it shall become a law."

Mr. RANDOLPH asked whether a motion for indefinite postponement would, in the opinion of the Speaker, lie in this case?

The SPEAKER believed not.

The following article of the Constitution was then read by request:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble,

and to petition the Government for a redress of grievances."

Mr. BASSETT said, though the Constitution had prescribed a reconsideration of the bill when returned, the mode of reconsideration was not prescribed; and it might as well be by reference to a select committee as in any other mode. The bill might, perhaps, be amended. Of their power to amend it in its present stage, however, he was not certain.

Mr. SMILIE conceived the Constitution temporarily to require an immediate decision.

Mr. PITKIN said, that this question was new to him. He had no idea that the Constitution precluded Congress from passing laws to incorporate religious societies for the purpose of enabling them to hold property, &c. He had always held the Constitution to intend to prevent the establishment of a National Church, such as the Church of England—a refusal to subscribe to the tenets of which was to exclude a citizen from office, &c. Desiring time for reflection, he therefore wished the bill to lie on the table for further consideration.

Mr. PICKMAN said, it appeared to him that the bill was not an important one, a refusal to pass which would be productive of any serious injury; and yet, that a full discussion of the principles it involved would occupy the whole of the remainder of the session. If two-thirds of the House were to refuse to proceed to a reconsideration, the bill would be *ipso facto* at an end; and this he thought would be the best course, &c., considering all the circumstances.

Mr. WHEATON said he differed widely from his colleague (Mr. PICKMAN) as to the importance of the bill now under consideration. He did not imagine that they were to assume the objections of the President to be valid, and of course to dismiss the bill. They had a duty to perform as well as the President. He had performed his duty in the case presented for consideration. And would gentlemen assume it as a correct position because the bill was objected to by the President that the House ought not to act understandingly? This was not a correct principle. In his view the objections made by the President to this bill were altogether futile. Mr. W. said he did not consider this bill any infringement of the Constitution. If it was, both branches of the Legislature, since the commencement of the Government, had been guilty of such infringement. It could not be said, indeed, that they had been guilty of doing much about religion; but they had at every session appointed Chaplains, to be of different denominations, to interchange weekly between the two Houses. Now, if a bill for regulating the funds of a religious society could be an infringement of the Constitution, the two Houses had so far infringed it by electing, paying or contracting with their Chaplains; for so far it established two different denominations of religion. Mr. W. deemed this question of very great consequence. Were the people of this District never to have any religion? Was it to be entirely excluded from these ten miles square?



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He should be afraid to come if that were to be the case. The want of time was no sufficient reason against giving this subject a mature consideration. What was done ought to be well done. For these reasons he was in favor of the bill lying on the table.

Mr. MACON quoted a precedent of the proceedings in a case similar to this in General WASHINGTON'S Administration; in which the House, after a consideration of the Message, had come to the following resolution:

"Resolved, That to-morrow be assigned for the reconsideration of said bill, according to the Constitution of the United States."

He moved that the same resolution be now adopted.

Messrs. LYON and BOYD were in favor of an immediate decision.

Mr. SOUTHARD wished a postponement to give him time to examine the bill. He was convinced that a bill might be passed for regulating the temporal concerns of a religious society, which would not violate the Constitution; but did not say, till he could examine whether this was such a bill or not.

Mr. QUINCY quoted cases of laws which had passed the signature of the late President, which, in every material respect, appeared to him to contain the same provisions as this bill.

The motion of Mr. MACON was adopted without a division.

#### CULTURE OF HEMP.

Mr. NEWTON laid before the House a letter from the Secretary of the Navy to the Committee of Commerce and Manufactures, on the propriety of encouraging the culture of hemp, by protecting impost duties, or by prohibiting its importation from foreign countries; which was referred to a Committee of the Whole.

The letter is as follows:

NAVY DEPARTMENT, Jan. 21, 1811.

SIR: I have had the honor of receiving your letter of the 17th instant.

As to the expediency of encouraging the culture of hemp, by protecting impost duties, or by prohibiting the importation of that article into the United States and its Territories, it is not, I presume, expected of me, to make any observations—as these are subjects appertaining peculiarly to the Treasury Department; and no doubt the Secretary of the Treasury can afford all the information necessary to enable you to form a satisfactory opinion upon them.

Without venturing an opinion upon the expediency of either of these provisions, I will submit for your consideration the following observations relative to the culture and dressing of hemp, &c.

In the essays first made by our countrymen in the culture of hemp, and in dressing it for market, the disadvantages of inexperience were sensibly felt.—Many errors, added to the dissuaves of previous habit, discouraged its culture. Doubts, too, whether the climate or soil of our country was adapted to the raising of hemp, were entertained. But very few, indeed, indulged the expectation that we should ever be able to make hemp equal to that of Russia. Hence, for many years, the culture of this important article

progressed slowly; our countrymen, however, stimulated by their characteristic enterprise, and by hopes of ultimate success, persevered in repeated experiments, and have at length acquired that practical information which has corrected many of their first errors, and now enables them to raise hemp in such quantity, and of such quality, as to compensate them amply for their trouble. Still, however, they have not yet acquired that extensive information upon the subject which would assure to them all the advantages arising from the culture of this valuable article.

In preparing the hemp for breaking, the pernicious practice of what is commonly called "dew rotting," still prevails to a great extent—a practice tedious in its process, partial and unequal in its effects upon the fibre, and destructive of considerable quantities of hemp by the unavoidable exposure of it to the winds, which blow it about and entangle it. Hemp thus prepared is, in some places, strong, in others, weak, and has moreover a dark color—all which materially affect its value.

In hemp there is a viscous, gummy substance, by which the fibres of the bark are bound together and to the body of the plant, and all that is necessary to prepare it for breaking is to dissolve this substance. The experience of other nations has long since decided that this dissolution can best be effected by immersing or steeping the plant in pure, clear, running water, which, in a much shorter period of time than any other system heretofore practised, produces this dissolution over all parts of the plant equally; makes it equally strong in all places, renders it more flexible, gives it a lively bright color, and, what is an object of vast importance, especially as respects durability under water, it will receive and retain a greater portion of tar than when prepared by "dew rotting." It may be here further remarked, that the more clear and pure the stream of water, the brighter will be the color of the hemp.

"Dew rotting" requires many weeks of constant attention; but practical men affirm, that, in a pure warm stream of water, the process of dissolution will frequently be completed in five or six days.

In Russia three weeks are allowed for steeping where the water is not very cold; but if cold, as in rivers and springs, five, and sometimes six weeks are found to be necessary. To ascertain whether the hemp be sufficiently steeped, a head is taken out of the pound, dried, and beat, and if the husk comes off, the hemp is considered as having been sufficiently steeped. It is, then, taken out of the pound and suspended upon sticks placed horizontally for the purpose of drying; after remaining in the open air in this situation about a fortnight, it is removed and put into a kiln, where it is suffered to remain twenty-four hours. It is then ready for breaking, which operation is performed by means of a hand mill; after this is done, the husk is beaten off by striking the heads obliquely with iron and wooden instruments of the shape of a large two-edged knife; finally, it is drawn through a wooden comb, with one row of wide wooden teeth, for the purpose of unravelling and cleaning it.

As to the climate and soil best adapted to the culture of hemp, it may be observed that it is raised both in the frigid and torrid zone, and that any soil, if not wet, may be made to yield hemp, although the richer the soil the better, and a flat country is, for this purpose, to be preferred. On the waters of the Ohio, Mississippi, Susquehanna, Potomac, James river, and

other parts of the United States, there is an abundance of land peculiarly adapted to the culture of hemp.

As to the certainty and profit of a crop of hemp, it is believed that no crop is more certain when sown in ground adapted to it, and to the grower it yields a profit superior to most articles, and exceeded but by few; an acre of ground well ploughed, harrowed, and manured, will yield a thousand pounds of clean hemp, worth, when properly cured and dressed, from \$100 to \$160—sometimes \$200. The labor and necessary buildings required, in the sowing, preserving and preparing for market a crop of hemp, are inconsiderable when compared with some other articles, and especially tobacco, while the profit is greater and the injury done to the soil much less.

From a disposition to encourage the culture of hemp, cordage made of American hemp has been brought into use in our Navy. For standing and running rigging, and indeed for most other purposes, excepting cables, it is found to answer very well, even when made of "dew-rotted" hemp. Of the "water-rotted" hemp, we have not yet been able to procure a sufficient quantity to justify our excluding the use of Russia hemp, especially for cables. American "water-rotted" hemp is no doubt equal in all respects to the best Russia hemp; indeed, I rather incline to think it superior. Upon this point, however, the samples herewith sent will enable you to form an opinion.

No. 1 is a sample of American "water-rotted" hemp grown on Blannerhassett's island.

No. 2 is a sample of Russia hemp, delivered to me by a ropemaker as the *best* kind of Russia. In this, however, I incline to think there must be some mistake, though it is certainly good hemp.

No. 3 is a sample of American "dew-rotted" hemp, grown in Botetourt county, Virginia.

Upon examining these samples, you will, I believe, find the opinion which I have ventured to express with respect to the mode of dressing hemp confirmed in a great measure. The great difference between "water-rotted" and "dew-rotted" hemp, will be obvious to you from such examination.

American "dew-rotted" hemp, being of a dark color, frequently neither broke nor scutched as it ought to be, and brought to market without being properly emaled, does not, in such cases, command a good price in our markets. These are the causes, and this the effect. The growers of hemp ought not, however, to be discouraged by this circumstance. They should remember that, in removing the cause, the effect will cease; and they may be assured that, if their hemp is properly prepared, it will always command a price equal to the hemp of Russia, probably superior. For my own part, as Secretary of the Navy, I can only say, that in such case I should feel it to be my duty to give a decided preference to hemp of our own growth.

The quantity of hemp raised in our country increases every year, and no doubt exists, that in a very short period of time, enough will be raised to supply every public and private demand for all the purposes to which it is applicable.

The desiderata to be obtained appear to me to be, to persuade our countrymen to relinquish the prevailing pernicious practice of "dew rotting," and to adopt that practice which the experience of other nations has approved, namely, the steeping in water: this done, they will soon find their advantage in the change, and thus a new and powerful impulse will be given to the culture of this valuable article.

Should you think it expedient to offer any inducements to produce this change in the manner of dressing our hemp, whence would flow such happy effects, permit me to observe, that the only one which, at this time, occurs to me as coming within the range of my official duties to execute, would be an annual appropriation by Congress of a sum of money enabling me to contract for a supply of American hemp and canvass for the use of our Navy. Should this plan be approved, the appropriations should be made in time to admit of contracts being formed prior to the commencement of the season for cropping; and the first appropriation should be made distinct from other appropriations, or it might be added to the estimates for the current year in the first instance. This would involve an appropriation in the first year exceeding the amount required in that year for the expenses of the Navy, but it would be a provision for the ensuing year, and the amount might be deducted from the estimates of the ensuing year. The propriety of this provision will readily occur to you, when I state the fact, that it would not be possible, at this time, to contract for these articles, deliverable in time to be used within the year; they could not be delivered till after the crops of this year shall have been gathered and prepared for market. In the contracts which might thus be made, it would become my duty, in execution of the object of Congress, to stipulate that the hemp should be steeped in water instead of being exposed to dews; and, upon good security being given, a portion, not exceeding one-fourth or one-third of the amount of each contract, might be advanced. These contracts being judiciously distributed in different parts of the country, and, what would be just, a higher price being given than "dew-rotted" hemp would command, it would not be unreasonable to expect that a spirit of emulation—always useful to public improvements—would be excited, and powerfully assist in exploding present errors and in producing the change in the dressing of hemp; which, in my opinion, would essentially promote individual and national prosperity.

Some few of our countrymen do, at this time, I am told, entertain apprehensions that our markets will be overstocked with American hemp, and that the price will be greatly diminished. This admitted, they have it in their power to prevent the importation of all foreign hemp, by making theirs, in all respects, equal to foreign hemp. This, indeed, in a national view, would be an important point gained. But when it is considered to what a variety of purposes hemp is applicable; that we are at this time greatly dependent upon foreign countries for hemp, for canvass, and linens of various kinds made of hemp; that there exists a spirit of patriotism and of persevering industry ready to be exerted, when fit opportunities shall present, to shake off this dependence; that if more hemp should be raised than will be required for cordage, factories of canvass and linens will necessarily be established. Such apprehensions lose their force, and yield to reflections and anticipations of the most agreeable nature.

A comprehensive view of this subject leads us to cherish the expectation that the United States will, at no very distant period, become exporters of hemp, as they now are of every other description of naval stores and of cotton; and that the individuals who raise it will, like those who raise other naval stores and cotton, experience all the beneficial effects resulting therefrom.

These observations are submitted to you, sir, with all the diffidence which the novelty of the subject nat-

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usually excites, and with the hope that they may be useful in aiding your deliberations upon the highly interesting question now under your consideration.

I have the honor to be, &c.

PAUL HAMILTON.

Hon. THOMAS NEWTON, &c.

Mr. LYON, after some preliminary remarks, submitted the following resolution:

*Resolved*, That additional or original duties ought to be laid on the importation of card wire, hemp, lead, and cotton, and upon all manufactures of which those articles constitute the chief materials.

Mr. EPPES suggested a reference of the resolution to the Committee of the Whole, to whom was referred a bill on the subject of additional duties.

Mr. NEWTON stated that a resolution on the subject of hemp having been referred to the Committee of Commerce and Manufactures, they had applied to the Secretary of the Navy on the subject, from whom a report had been received of considerable interest, which ought to be referred to the same committee.

Mr. LYON's resolution was referred as moved.

#### COMMERCIAL INTERCOURSE.

The House resumed the consideration of the bill supplementary to the act concerning commercial intercourse, &c.

[This act, it will be recollected, contains but one section, exempting from seizure vessels with their cargoes which had left the ports of Great Britain previous to the second of February.]

Mr. EPPES moved to amend the bill by adding to it the following sections:

"*SEC. 2. And be it further enacted*, That in case Great Britain shall so revoke or modify her edicts; as that they shall cease to violate the neutral commerce of the United States, the President of the United States shall declare the fact by proclamation; and such proclamation shall be admitted as evidence; and no other evidence shall be admitted of such revocation or modification in any suit for prosecution which may be instituted under the fourth section of the act to which this act is a supplement. And the restrictions imposed, or which may be imposed, by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued.

"*SEC. 3. And be it further enacted*, That until the proclamation aforesaid shall have been issued, the several provisions of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,' shall have full force, and be immediately carried into effect against Britain, her colonies, dependencies, &c. *Provided however*, That any vessel or merchandise which may in pursuance thereof be seized, prior to the fact being ascertained, whether Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner abovementioned, shall nevertheless be restored on application of the parties, on their giving bond with approved sureties to the United States, in sum equal to the value thereof, to abide the decision of the proper court of the United

States thereon; and any such bond shall be considered as satisfied if Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner abovementioned."

Mr. E. said it would be seen that, in the present state of our laws, there was no provision that the non-intercourse with Great Britain should cease, if, after the third day of March, she also should so revoke or modify her edicts as that they should cease to violate our lawful commerce. One of the objects of his amendment was to provide for that contingency. Another provision of the amendment went to remove doubts which might exist in the minds of some as to the operation of the law of May last, and which might give rise to vexatious suits. The committee had thought it proper that in this case the Legislature should step forward and decide; that it was not consistent with the responsibility they owed to the community to turn over to the judicial tribunals the decision of the question whether the non-intercourse was in force or not. These sections, Mr. E. remarked, together with the provisions now before the House, were calculated to preserve precisely the present attitude of the United States, and to wait for events to authorize a change of it. If any such course should be taken as was proposed by a repeal of the law of May last, in what situation, he asked, should we stand both as respects Great Britain and France? You have by law proposed to both certain conditions; and, before the arrival of the period allowed to Great Britain for the repeal of her orders, you would sweep from your statute book all the provisions relating to the subject. What would be the operation of such a step as to the other nation? At a time when there is no doubt that her decrees will be revoked, and that at present they cease to have their operation, you revoke the law on the faith of which the revocation is made! The proposed measure will preserve our present attitude; and as it is freed from the provisions (objectionable to some) for enforcing more rigidly the non-intercourse, and is yet such a course as will comport with the honor and dignity of the nation, I hope there will be no objection to it. Having been always myself in favor of the principle of the bill, I am prepared to vote for it and for the additional sections. I consider it important that the decision should be at once made, as vessels are daily arriving. The collectors are at present liable to suits to an immense sum; and it is proper that the responsibility should in such a case rest on the principal rather than the agents. I therefore hope the bill will be passed to a third reading this day.

Mr. LYON said he was one of those who thought that the national faith had not been constitutionally pledged; that they were never authorized, as a component part of the Legislature, to give such a power to another branch of the Legislature or to the Executive. What had been received from France to make this law a contract? A declaration that her decrees were revoked, and should not operate after the first of November. Was

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this true? He presumed it was not. The accounts from Europe amounted to this: that our vessels are to remain sequestered until the second day of February, and then to receive their final doom. Are we, said he, to be charged with a breach of good faith for the refusal on their part to fulfil their declaration or promise? What could be expected to be the ultimate fate of these vessels? That they would be sold, and the proceeds deposited in the Imperial treasury, &c.

Mr. BISS said it was certainly far from his intention to throw any embarrassment in the way of the Committee of Foreign Relations, but he was unwilling to act on this matter without due deliberation, and therefore moved that the bill and amendments should lie on the table. The subject was not so urgent that one day would be a matter of any great consequence.

Mr. EPPES said he had no objection to the motion.

Mr. GOLDSBOROUGH made a motion to refer it to a Committee of the Whole.

Mr. MUMFORD stated that it was his intention, when the bill should come under consideration, to move the following amendment to it:

*Provided*, That nothing herein contained shall be construed to affect the cargoes of ships or vessels wholly owned by a citizen or citizens of the United States, which had cleared out for the Cape of Good Hope, or for any other port beyond the same, prior to the 10th of November, one thousand eight hundred and ten.

He said he had inserted the 10th of November to allow time for the arrival of the proclamation at the different ports.

The motion for the bill to lie on the table was negatived—53 to 42.

It was referred to a Committee of the Whole—52 to 51—and made the order of the day for tomorrow.

#### JOHN MACNAMARA.

The bill for the relief of John Macnamara was read a third time. [The bill goes to relieve this person from a penalty for bringing to the United States exiles from Cuba and their slaves.]

Mr. RANDOLPH opposed the bill on the ground of the danger of giving any the least license to the introduction of slaves into this country, or of the maroons, brigands, or cut-throats from St. Domingo, or elsewhere. He alluded to the late warning the House had received in the occurrences in the neighborhood of New Orleans, which, he said, ought to call on all orders of men in the State to discountenance any relaxation of our laws on this subject.

Mr. CHEVES entertained the same general sentiments as Mr. RANDOLPH, but this was a peculiar case of hardship, where a captain, ignorant of our laws, had, from the mere impulse of humanity, without any other compensation than the gratification of that sentiment, brought a number of these people from Nassau.

Mr. RHEA opposed the passage of the bill on the same grounds as Mr. RANDOLPH.

Mr. NEWTON stated the circumstances of this case: that a law was already in existence which

would have afforded relief, had the importation been direct from Cuba; but the slaves having been circuitously brought from Cuba, via Nassau, this case was taken out of the scope of the law.

Mr. CHEVES moved to recommit the bill, with a view to insert a provision requiring the re-exportation from the United States of the slaves thus introduced.

After debate, the motion was agreed to, and the bill recommitted.

#### FRIDAY, February 22.

The SPEAKER laid before the House a resolution of the Legislature of the State of Kentucky, declaring the assent of that State to the amendment proposed by Congress at their last session to the Constitution of the United States, respecting titles of nobility.

Mr. VAN HORN, from the Committee for the District of Columbia, presented a bill authorizing the President and Managers of the Potomac Bridge Company, to draw a lottery or lotteries within the District of Columbia; which was read twice, and committed to a Committee of the Whole tomorrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act concerning Consuls and Vice-Consuls, and for the further protection of American seamen,' with amendments; and a bill, entitled 'An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio;'" as also a bill, entitled "An act to extend the right of suffrage in the Indiana Territory, and for other purposes;" to which amendments and bills they desire the concurrence of this House.

#### CLAIM OF LIEUTENANT KNIGHT.

The bill for the relief of Simeon Knight was read a third time. [The bill authorizes the repayment to Mr. Knight of a sum of money paid by him to General Wilkinson, under the orders of the War Department, for extra rations, &c., allowance of which he is refused by the Accountant of the War Department. The bill also contains a provision that this bill shall not be held to sanction any such payment as legal.]

Mr. WRIGHT moved that it should lie on the table. His object was to move a resolution requiring the President to lay before the House a statement of the pay of the respective Brigadier Generals. Motion lost—46 to 41.

Mr. W. then opposed the bill on account of the proviso which it contained. He went into a lengthy detail to show that, whilst General Wilkinson, the oldest brigadier, received, under the law of 1806, but two thousand seven hundred dollars at most; the two inferior or younger brigadiers, under the law of 1808, received four thousand three hundred and thirty-two dollars each, &c.

Mr. ROOR also opposed the bill at length on

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the same grounds. He had rather sacrifice the individual, just as his claim might be, than sacrifice great principles. He could not consent, he said, to take shelter behind this young man, Mr. Knight, to assassinate the reputation of the late President and Secretary of War, under whose sanction the payment of General Wilkinson had been made.

MESSRS. LOVE and POINDEXTER spoke against the bill, and Mr. GOLDSBOROUGH in favor of it.

Mr. SOUTHAARD moved its indefinite postponement.—For indefinite postponement 63, against it 53, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Garnett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, William Kennedy, John Love, Aaron Lytle, Nathaniel Macon, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Samuel Shaw, John Smilie, George Smith, John Smith, Henry Southard, Richard Stanford, Jacob Swoope, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, and Robert Wright.

**NAYS**—Joseph Allen, William T. Barry, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Barent Gardener, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Thomas Moore, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Ross, Thomas Sammons, Daniel Sheffey, Dennis Smelt, John Stanley, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, James Wilson, and Robert Witherspoon.

### COMMERCIAL INTERCOURSE.

On motion of Mr. EPPES, the House resolved itself into a Committee of the Whole, on the bill supplementary to the act concerning commercial intercourse, &c.

Mr. RHEA, of Tennessee, moved to amend the amendment, offered yesterday by Mr. Eppes, so as to provide that if, *before the second of February last*, Great Britain shall have so revoked or modified her edicts, &c., *then*, and *in that case only*, should the President issue his proclamation suspending the non-intercourse, &c. He said he wished to avoid any difficulty in the construction

of the law. He was opposed to any modification of the agreement with France, and desirous to carry it into full effect. Had Great Britain done the same, he would have shown the same disposition as to her.

Mr. EPPES said he considered it no part of the compact or agreement with France, that if Great Britain should not revoke her orders before the second of February, we were to remain in a state of non-intercourse with her forever. If she should revoke her orders, as was possible, it must be the wish of every man that, the moment the fact was known, the non-intercourse should be withdrawn. The Legislature might not at the time be in session, and the bill would vest the power in the President during the recess to declare the fact on which their revocation depended.

MESSRS. WRIGHT and RHEA of Tennessee, supported the motion; and Mr. EPPES replied.

The Committee, without taking a question, reported progress, and obtained leave to sit again.

The House proceeded to reconsider the bill, passed by the two Houses, entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," which was returned by the President yesterday, with objections; when an adjournment being called for, was carried.

SATURDAY, February 23.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act in addition to the act, entitled 'An act supplementary to the act concerning Consuls and Vice-Consuls, and for the further protection of American seamen,'" and the same being read, were concurred in by the House.

The bill from the Senate, entitled "An act in addition to the 'Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio,'" was read twice, and committed to a Committee of the Whole on Monday next.

¶ The bill from the Senate, entitled "An act to extend the right of suffrage in the Indiana Territory, and for other purposes;" was read twice, and committed to the Committee of the Whole to whom was referred the report of a select committee on a resolution of the Legislative Council and House of Representatives of the Indiana Territory.

On motion of Mr. McKEE, the select committee appointed the twenty-third ultimo, on the memorial of William Lambert, were discharged; and the memorial was referred to the Secretary of State, to consider and report thereon to this House.

Mr. WEAKLEY presented a petition of sundry inhabitants of West Tennessee, praying the adoption of such measures by the General Government as will secure to them the free and unmolested navigation of the Mobile and Tombigbee rivers, of which they are now deprived by the

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interference of the Indians.—Referred to the Secretary of State.

### RETURNED BILL.

The House resumed the reconsideration of the bill passed by the two Houses, entitled "An act incorporating the Protestant Episcopal Church, in the town of Alexandria, in the District of Columbia," which was presented for approbation on Thursday, the 14th instant, and returned by the President on the 21st instant, with objections.

The said bill was read at the Clerk's table, and is as follows:

An act for incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the Minister and Vestry of the Protestant Episcopal Church of the town of Alexandria, in the District of Columbia, which was, on the first day of January, one thousand eight hundred and nine, associated as a religious society, be, and their successors are hereby, declared and made a body corporate and politic, by the name, style, and title, of the Minister and Vestry of the Protestant Episcopal Church of the town of Alexandria; and by the name, style, and title, aforesaid, they, and their successors, shall forever lawfully have, hold, use, and enjoy, all and every tract and tracts of land, already belonging to the said Church, which is now, or which may hereafter be, acquired by donation or purchase; the Church already built, with the burying ground belonging to the same, with their hereditaments and appurtenances; and all books and other property heretofore, and that may hereafter be, appropriated to the use of the said Church, to the sole and proper use and benefit of the said Church, agreeable to the true intent and meaning for which any of the said property was or may be purchased or given; and by the name, style, and title, aforesaid, they shall be capable in law to hold, maintain, and recover, all their estates, rights, and property, belonging thereto, and to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all suits, controversies, causes, actions, matters, and things, whether they be actions of debt, assumpsit, ejectment, trespass, or bill in chancery, in any court or courts of law or equity, and before any judge or justices whatsoever, and shall have one common seal and perpetual succession; and the service of process upon the churchwardens shall be a sufficient service upon the body corporate.

Sec. 2. *And be it further enacted,* That, in all proceedings of the aforesaid minister and vestry, all matters shall be decided by a majority of the votes; and the said minister shall in no case have a negative on the proceedings of the said corporation, except when his vote shall be with, or make a majority of the votes, present, at any meeting of the said corporation.

Sec. 3. *And be it further enacted,* That the said minister and vestry, by the name and style aforesaid, shall have good right, full power, and lawful authority to have, take, receive, acquire, purchase, hold, use, and enjoy, all lands, tenements, hereditaments, and all goods and chattels; and to demise, alien, improve, and lease, not only the lands which they now have, but which they may hereafter acquire; and to use and improve such goods and chattels, to the use and benefit of the said church, so that the annual increase there-

of shall not exceed six thousand dollars, any law, usage, or custom, to the contrary notwithstanding. And it shall and may be lawful for the said minister and vestry of the said church, to sell any of the said property, real or personal, which at this time lawfully belongs to the said church, or the interest which the said church may have in any property, real or personal, or which may hereafter belong to it, for the purpose of applying the proceeds thereof to the purpose of erecting a new church, or repairing the present one, for the use of the said congregation or building, or repairing dwelling or other houses, for the use of their minister, or school houses, within the said town of Alexandria, or in any other way or manner as they shall, from time to time, think necessary for the benefit of the said church: *Provided,* That nothing in this act shall be construed so as to affect the rights or claim of any person or persons, county or parish, in or to any property now in possession of the said church, or claimed by it.

Sec. 4. *And be it further enacted,* That the minister, or in case of his absence, or of a vacancy, the churchwardens, shall call a meeting of the vestry as often as it shall be deemed necessary; seven of whom shall be a sufficient number to constitute a meeting for the dispatch of business, and shall have power (except for the election of a minister, or of demising, alienating, or leasing of land, in which cases, a concurrence of a majority of the whole number elected shall be necessary,) to make such rules and orders, for the managing all the temporal affairs of the said church, as they, or a majority of them so met, shall agree upon, and shall think most conducive to the interest and property of the said church; and shall have the disposition and ordering of all payments of the moneys belonging to the said church, and also of the appointment of a clerk, treasurer, collector, and sexton, whenever they judge it necessary, and the said clerk, treasurer, collector, and sexton, at their pleasure to remove, and appoint others in their stead; all which orders, rules, and appointments, together with the accounts of the said church, the said vestry shall cause to be fairly entered and preserved in well bound books, to be provided for that purpose; and shall deliver the said books, with the papers and documents belonging to the said church, over to their successors in office.

Sec. 5. *And be it further enacted,* That, whenever a minister and vestrymen are wanting, to form a body corporate and politic, agreeable to the direction of this act, it shall be lawful for any two reputable members of the church to call together, at the said church, by notice duly published in one of the newspapers published in the town of Alexandria, the members of the said church, and there elect, by a majority of votes, twelve able and discreet men, members of the said church, who shall be a vestry to all intents and purposes, and who, with their minister, or during a vacancy without a minister, shall be a body corporate and politic, by the same name, and shall enjoy all the rights, powers, privileges, and immunities, which are given by this act to the said church.

Sec. 6. *And be it further enacted,* That, at all elections of a vestry for the said church, no person shall be allowed to vote who is not a member of, and who has not actually contributed to the support of the said church, for twelve months next preceding the said election. There shall be elections of vestrymen every third year, forever, the next election to be held on Easter Monday next, and all succeeding elections on the same day, in every third year thereafter, which elections shall be held and conducted in the following manner: The

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members of the said church shall assemble at the said church, or if there should be no church-house, at such other place as the vestry, for the time being, shall appoint by due notice, on Easter Monday in every third year, and then and there elect twelve able and discreet men, members of the said church, as vestrymen, who shall continue in office for three years, and until their successors be elected, in the manner aforesaid; two of the vestrymen so chosen, shall, annually, by a majority of the vestry, be appointed churchwardens, who, or either of them, and their successors, shall preside at all elections of a vestry, shall take care that such elections are conducted in a fair and orderly manner, and shall be judges of the qualifications of the electors.

Sec. 7. *And be it further enacted*, That, whenever a vacancy or vacancies in the vestry shall happen, either by death, resignation, quitting the church, or removal, the remaining vestrymen, or a quorum of them, shall choose such person or persons as they may think fit and proper, to supply the office of such vestryman or vestrymen, who, in complying with the rules and forms of the said church, shall continue in office until the next general election, except he or they remove, resign, or quit the church as aforesaid.

Sec. 8. *And be it further enacted*, That it shall and may be lawful for the said vestry to make such provision for the support of the poor of the said church, as shall by them be thought proper; and to provide also, in such manner as to them shall appear proper, for the education of the poor children of the said church.

Sec. 9. *And be it further enacted*, That the vestry of the said church, two-thirds concurring, shall have full power and authority to remove from the said church any minister guilty of unworthy behaviour, or of neglecting the duties of his office; and, upon such removal, the said vestry shall have authority to elect a successor.

Sec. 10. *And be it further enacted*, That it shall and may be lawful for the said minister and vestry to make such rules and regulations, for the good management of the temporal affairs of the said church, as may be deemed by them most expedient, and for the government of the said vestry, and the same to abrogate or alter as often as they shall see fit: *Provided always*, That such rules and regulations are not inconsistent with, and against any provision of this act, the laws of Congress, and the Constitution of the United States, or any rule or canon of the Protestant Episcopal Church of the State of Virginia.

Sec. 11. *And be it further enacted*, That this act shall commence, and be in force, from and after the passing thereof.

JOSEPH B. VARNUM,

*Speaker of the House of Representatives.*

GEORGE CLINTON,

*Vice President of the United States,*

*and President of the Senate.*

The President's objections were also again read; and, after debate, the question "That the House, on reconsideration, do agree to pass the bill," was taken in the mode prescribed by the Constitution of the United States, and determined in the negative—yeas 29, nays 74, as follows:

YEAS—Joseph Allen, Abijah Bigelow, William Chamberlin, Epaphroditus Champion, John Davenport, jr., William Ely, James Emott, William Hale, William Helms, Ebenezer Huntington, Richard Jackson, jun., Herman Knickerbacker, Joseph Lewis, jr., Edward St. Lee Livermore, Vincent Matthews, Archibald Mc-

Bryde, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, jr., Elisha R. Potter, Dennis Smelt, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Ezekiel Whitman, and Robert Witherspoon.

NAYS—Willis Alston, jr., Ezekiel Bacon, William T. Barry, William W. Bibb, Adam Boyd, James Breckenridge, Robert Brown, William A. Burwell, William Butler, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, Nathaniel A. Haven, Daniel Heister, Jacob Hufty, Thomas Kenan, William Kennedy, Robert Le Roy Livingston, John Love, Matthew Lyon, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchill, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, Benjamin Pickman, jr., John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Samuel Shaw, Daniel Sheffey, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Jacob Swoope, Uri Tracy, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, James Wilson, and Robert Wright.

And so the said bill was rejected, two thirds of the House not agreeing to pass the same.

#### COMMERCIAL INTERCOURSE.

The House resumed, as in Committee of the Whole, the consideration of the bill supplementary to the act concerning commercial intercourse.

Mr. RHEA's motion, made yesterday, was negatived, two only voting in favor of it.

Mr. RHEA moved to strike out the first section of the amendment proposed by Mr. EPPES, authorizing the President to issue his proclamation suspending the non-intercourse whenever Great Britain shall revoke her Orders in Council. He said the principle would extend to a hundred years as well as to a single day after the second of February. The motion was lost—ayes 9.

Mr. LIVERMORE objected to the principle of making the President's proclamation the proof of the occurrence of a fact. The principle, he said, was not to be found in any former law, and was contrary to reason as well as precedent.

Mr. EPPES and Mr. ROSS opposed, and Mr. LIVERMORE and Mr. MILNOR supported the motion, which was negatived—yeas 54, nays 36.

Mr. WRIGHT said he was about to make a proposition, which, he hoped, would meet the approbation of every member of the House. It was, to amend the section so as to read: "In case Great Britain shall make such arrangement with the United States relative to the surrender of impressed American seamen as shall be satisfactory to the President of the United States; and shall so revoke, &c.; the President," &c.

Mr. W. supported his motion by urging a variety of considerations arising from the detention of our seamen in British jails, as he termed the

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ships of war. He estimated the number now in this situation at ten thousand. He alluded to the late impressment of a nephew of a Senator of the United States, (Mr. REED.) He said they paid no distinction to persons, and would as soon impress a member of this House as any one else.

Mr. RHEA supported the motion. Our Minister had told us a very firm tone ought now to be assumed with that Government, of which, as it now stood, this bill would be rather retreating than otherwise. If the amendment were adopted, he said, it would at least serve to keep alive the remembrance of those who appeared nearly to have been forgotten.

Mr. LYON made some observations on the subject of the inclusion of the blockade of May, 1806, in the edicts demanded of Great Britain to be revoked. That, he said, was not authorized by law; and this was to be another impediment thrown in the way of any settlement.

Mr. SMITH opposed the annexation of such a proposition as this to the present bill.

Mr. WRIGHT supported his motion at considerable length. He said our seamen had been piratically taken, and if we could catch their captors in this country, they ought to be hung. He said if the House refused to take any measures for the relief of those seamen, he should move to bring in a bill to ransom them, as we had done from the Algerines. This was a good time, too, he said, for everybody knew where there were \$7,200,000 of money (stock held by British subjects in the Bank of the United States) which might be well appropriated to the purpose. Unless our seamen were to be released, it was high time there should be a revolution in the country.

Mr. WRIGHT's motion was negatived, sixteen voting in the affirmative.

The first section, proposed as an amendment by Mr. EPPES, was then agreed to.

The second section being under consideration, which goes to declare the non-importation to be in force against Great Britain, &c.

Mr. MILNOR said: Mr. Chairman, when I take a view of the course which has been pursued in relation to this subject, during the present session, I confess I feel greatly surprised that we should be called upon to adopt the present measure. It will be recollected, sir, that, at a very early period, the honorable chairman of the Committee on Foreign Relations, reported a bill supplemental to the act of the 1st of May last. Although the gentleman did make one or two feeble attempts to call it up for consideration, yet it was manifest that there was a general indisposition to act upon it at that time. This, in the opinion of myself and many others, arose from a doubt in the good faith of the Emperor of the French. It was true that he had, through the Duke of Cadore, declared that the Berlin and Milan decrees were revoked on the 5th of August, and that they should cease to have effect after the first of November; and it was also true that the President of the United States had, by his proclamation of the 2d of November, declared, not simply that this promise had been given, but that the decrees were

revoked, and had ceased to operate. Notwithstanding this declaration of the President, the previous conduct of the French Emperor inspired an almost universal doubt of his good faith, and the curious character of the declaration made by Cadore, was calculated to increase it. The decrees of Berlin and Milan were revoked; that is, dead on the 5th of August, and ceased to have effect; that is, to live on the first of November; thus this creature had the wonderful faculty of being dead and alive at the same time; of ceasing to have effect, and acting with full vigor at the same instant. While all was doubt and hesitation, despatches were received from Mr. Russell, our Chargé d'Affaires at Paris, which made it apparent that the decrees which were to cease to have effect on the first of November, were, in the month of December, still in existence, and in full and practical operation. It is now evident that the President was duped by the French Emperor, and led to issue a proclamation on the faith of his promise, declaring a fact which did not exist. So convinced were the House that this was the true state of the case, that the honorable chairman of the Committee on Foreign Relations himself moved to recommit the bill he had previously introduced, and it was done. What, then, I would ask, sir, has since occurred to alter the face of affairs, to induce this new attempt to fasten on the restrictive system against our intercourse with Great Britain? Is there anything in the last communication from the President, calculated to produce such an effect? On the contrary, it furnishes the most conclusive evidence of the treachery of Bonaparte, and ought to serve as a beacon to warn us against trusting him further. It is true that there is a letter from Mr. Pinkney to Lord Wellesley, dated December 10th, in which the former labors to prove, that Cadore's note to Armstrong is an absolute repeal of the French decrees, without any conditions precedent, and that therefore the British Government ought to be satisfied of its validity, and take immediate measures for revoking their orders and blockades, agreeably to their promise. But, it unfortunately happened that, on the same day on which our Minister at London was performing his duty, in transmitting his able but theoretical argument to the British Ministry, our Minister at Paris was also performing his duty in remonstrating against the practical operation of those very decrees, which were to have ceased to have effect on the first of November. [Here Mr. M. read the letter of Mr. Russell to the Duke of Cadore, dated December 10th, remonstrating against the seizure of the brig *New Orleans Packet*, it being the only case, as declared by Mr. Russell, to which the decrees could be applied subsequent to the first of November.]

I recollect, sir, when Mr. Russell's correspondence was communicated to this House, an apology was set up for the French Emperor. It was alleged that the President's proclamation had not arrived in France at the time of the seizure of the *New Orleans Packet*, and that Bonaparte, having received no evidence of the intention of



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the American Government to fulfil their engagement, had used the precautionary measure of seizing the vessel, until he should receive some evidence of our good faith; and we were exultingly told that the President's proclamation would put all to rights, by satisfying his doubting Majesty of our sincerity, and would induce him to release all property seized subsequent to the first of November, and once more to put an end to those nine-lived decrees. How has this prediction been verified? The President's proclamation was communicated to the French Government on the 12th of December; two days after Mr. Russell's remonstrance; and yet, for anything we know, that remonstrance remains unanswered, and the New Orleans Packet remains under seizure to this very day. It is true that, after waiting thirteen days, His Majesty condescended to direct the partial suspension of the decrees, thereby giving the most positive proof not only of their existence, but of their active operation. On the 25th of December, the Dukes of Massa and of Gaete, by the direction of their master, severally wrote a letter to the officers connected with their respective departments, directing them to suspend the operation of those very decrees, so far as respected the condemnation of vessels and cargoes, seized after the first of November; not only those then in custody, but such as should thereafter be seized. I will read a part of those letters for the purpose of refreshing the memories of gentlemen on the subject. The Duke of Massa writes to the President of the Council of Prizes, as follows: "In consequence of this engagement entered into by the Government of the United States, to cause their rights to be respected, His Majesty orders that all the causes that may be pending in the Council of Prizes, of captures of American vessels, made after the first of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d February next, the period at which, the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the Council—and the American vessels restored, together with their cargoes, to the proprietors." The letter of the Duke of Gaete is of a similar import. I will read a single paragraph, which is as follows: "His Majesty having seen in these two pieces" (the President's proclamation and Gallatin's circular to the collectors) "the enunciation of the measures which the Americans purpose taking on the second of February next, to cause their rights to be respected, has ordered me to inform you that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the first of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report."

Here, sir, we find these two officers, by direction of their master, explicitly recognising the existence of the Berlin and Milan decrees, and suspending their operation not as to sequestration, but only as to condemnation. Not only those which had arrived after the first of November, but those which should thereafter arrive, were to be held in a state of sequestration, and to be subject to a special report. With this plain statement before their eyes, will gentlemen assert, can they possibly believe, that the decrees were revoked and ceased to have effect on the first of November? They surely cannot. If, then, the declaration of the fifth of August is proved to be false, and the assurance that the decrees should cease to have effect after the first of November was mere delusion, what becomes of the act of the first of May, and of the President's proclamation? Sir, they are mere dead letters, having no binding force or operation. The practical operation of the act of the first of May was to depend upon the performance of certain conditions on the part of one or the other of the belligerents, and the President's proclamation was intended as a mere notification of such performance. Admitting, then, that a faithful performance of the pledge of the fifth of August, on the part of France, would have had a binding force on us to carry our part of the agreement into effect, can any man, under the existing circumstances, believe we are so bound? Can a violation of a solemn pledge confer an obligation which was only intended to be created on the complete fulfilment of that pledge? Surely not. Sir, the law of the first of May, professed, on the face of it, to be impartial towards the two nations who have violated our rights. It promised that, if either would so revoke or modify her edicts as that they should cease to violate the neutral commerce of the United States, in that case certain restrictive measures should be revived against the other. Have either complied? France did, indeed, make a declaration that her edicts were revoked, and should cease to have effect on a certain day. That day has long since passed, and, for anything we know, those edicts are in full operation. Nay, we have positive proof of their active existence, nearly two months after they were to have ceased; for, on the 25th of December, their operation as to the condemnation of American property was suspended, while their power to sequester was absolutely recognised and continued. With such glaring, such positive proof before our eyes, of the perfidy of France, we are about to act as though we believed she had performed her promise with the utmost good faith. Nay, more, sir; if she had, indeed, complied with her engagement, she could require nothing more of us than the act of the 1st of May last; that was the full amount of our engagement, the utmost limit of our bond. Upon, and in consequence of that, was the Emperor's promise founded. Yet, we are not satisfied with that; persisting, in the face of the most positive and conclusive testimony to the contrary, to affect to believe that he has performed his promise, we are going beyond our contract; and, lest

some doubts should arise of the Emperor's want of faith, lest our courts should decide, as they must decide, that the decrees being still in force, the act of the first of May is a mere dead letter, we are about to volunteer our services; and, by the section of the bill now under consideration, to revive those sections of the old non-intercourse law which were intended in a certain event to have been revived by the act of the first of May; to revive them against Great Britain, and that without exacting any conditions on the part of France. And must this sacrifice be made in order to bolster up the President's proclamation so prematurely issued? Must the best interests of the nation be put to hazard to save him the mortification of acknowledging his error and retracing his steps? Here, I fear, lies the true motive for our present procedure.

This restrictive system is now to be revived against England, the French decrees being in full force and operation against us at the same time. Is this an honest neutrality? Is it equal and exact justice to those two nations? Is it not rewarding the perfidy of the one at the expense of the other, and at the expense of ourselves? Let us be cautious how we proceed in this course. If France chose, in consequence of our non-intercourse law of 1809, which was equal in its operation as to both nations, to take it so much in dudgeon as to confiscate the whole of the American property within her power, even that which had sought the rights of hospitality in her ports, how much more may Great Britain feel herself justified in retaliating on this most partial and unjust measure which we are about to adopt against her, by confiscating the millions of our property now within her power. And if we have been silent under the former, and have apparently acquiesced in it, what shall we, what can we, say, in case the latter event should take place? But, sir, the apologists of France tell us that His Majesty, the Emperor, has pledged his royal word that the decrees shall cease to operate as it respects us; and that, though he has thought proper to postpone the measure from the first of November to the second of February, he has only done so in order to ascertain whether we mean to go on to fulfil our engagements with good faith; that he is only holding our property seized since the first of November as security for our performance; and that, when he finds we are determined to resist the illegal orders and blockades of Great Britain, he will give up the property of our citizens. How insulting, this, to American feelings, to be told that a total violation of faith on the part of this man is excusable, because he chooses to suspect our faith. But, sir, do these people really believe the property of our citizens will be given up after the second of February, and in consequence of the measure we are now about to adopt? When did that voracious monster ever disgorge the plunder he had once received into his insatiable maw? Of the millions upon millions of which he has, at different times, and under various pretexts, plundered our unsuspecting citizens, where is the instance of a single

dollar returning to its rightful owner? No, sir, let it once get within his iron grasp, and it is lost forever. The present measure is evidently intended as a propitiatory sacrifice to conciliate Napoleon—to induce him to become our friend, and to cease to rob and plunder our defenceless citizens. Is it calculated to produce this effect? Short-sighted, as we confessedly are, sir, I should suppose we can scarcely be such silly politicians as to expect such an effect from such a measure. A brief view of the course which has been pursued, and is pursuing, by the Emperor of France, must produce a conviction in every unprejudiced mind, that he is not to be diverted from his purpose by a toy like this. Sir, it must be evident to every mind that his ambition soars to universal conquest. To this point all his measures tend—every other consideration is made to yield. For the accomplishment of this object, almost every nation on the continent of Europe has been insulted, plundered, and subdued. To this end the external commerce of the Continent has been annihilated, the agricultural and manufacturing interests have been depressed, and millions of his own subjects, and those of nations under his influence, impoverished and ruined. But there is one impediment to his gigantic project. Britain, proud, haughty Britain, stands in the way, and puts a stop to his career. Isolated, as she happily is, and the proud mistress of the ocean, she presents an impenetrable barrier to his ambitious views. But Britain must be humbled, she must be subdued. Her power on the ocean must be destroyed; and, to effect this, she must be attacked through her commerce and manufactures. For this purpose, what he is pleased to call his great continental system has been devised and rigorously enforced. Finding that all his restrictions and confiscations, aided by all his civil and military power, could not prevent the introduction of British merchandise upon the Continent, he has resorted to a plan which promises to be more effectual. Regardless of the rights and interests of his subjects, he does not inquire whose the property may be; if it is of British origin it is committed to the flames. Such is his plan; such are the efforts and sacrifices he is making to insure its accomplishment. And yet, Mr. Chairman, it would seem as if we had the consummate folly to believe that we can appease this merciless tyrant by so weak, so silly, so futile a measure as this one now under consideration. We seem to have the madness to believe that this man, after the immense sacrifices he has made for the attainment of his object, would yield that object in our favor, and in order to be upon friendly terms with us would forego all other considerations. And from what premises is such a conclusion drawn? Is it from his past treatment of us? Let us, Mr. Chairman, take a brief review of his past conduct towards us, in order to see what we may expect in future. It is some years since he ordered our ships and cargoes to be burned upon the ocean, and many were burnt. He has, at various times, and under different pretexts, seized and confiscated the property of our citizens on

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the ocean, and in his ports, and in the ports of his vassals. No longer ago than last Spring, he told us that we were without just political views, without honor, without energy; and that, after refusing to fight for honor, we might find it necessary to fight for interest. This insulting declaration, which was dated on the 14th of February, was followed on the 23d of March by the Rambouillet decree, which confiscated all American vessels and cargoes which had arrived from the 20th of May, 1809, or should thereafter arrive in any port of France, her allies, or those occupied by her arms. Thus was from twenty to thirty millions of the property of our unsuspecting and confiding citizens, who had sought the rights of hospitality in his ports, sacrificed without a pretext, or with a pretext, which added to the injury. Finding, after this gross violation of every principle which ought to govern honest and honorable nations, that our merchants, taught by sad experience that there was no safety within the range of his power, would venture there no more, he found it necessary to throw out another lure to entice the unwary within his reach. His tone is now suddenly changed. Instead of the haughty and insulting tyrant, he assumes the shape of a fond and doating lover. "His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy. He is pleased in aggrandizing the United States." Yes, truly, His Majesty loves the Americans! If not for our persons, yet for our property, he has given the most ample and convincing proofs of his love. These sugared words, displaying so much of the milk of human kindness, seem to have perfectly reconciled us to his loving Majesty, and to have quite obliterated the remembrance of his harsh and unkind language so lately used towards us. And not only so, but it seems to have fully compensated us for all his robberies; and we forbear to touch that string, lest he might be somewhat ruffled, and once more induced to vent his anger on us. But lest his bare professions of love should not have the desired effect of inducing the Americans once more to place their property within his power, he directed his Minister to declare that the Berlin and Milan decrees were revoked, and should cease to have effect after the first of November. Our Administration, confiding in his assurances, in the face of all his previous conduct, published the proclamation of the second of November, and thereby assisted in deceiving our too credulous citizens. But few, however, ventured to place trust in him; and those who did have met with a fate which every man of reflection ought to have anticipated. If, sir, such has been the course of that man's conduct towards us, (and that it has, I appeal to all the documents which have been laid before us,) I would ask why are we called upon to pass the section now under consideration? To me, it is matter of mystery and astonishment.

We have heretofore affected to hold out a rigid neutrality towards both nations. The law of the 1st May last had that appearance. It held out a promise to each, that if she would cease to injure

us, and the other should persevere, we would put certain sections of the old non-intercourse law into operation against her. Neither have ceased to violate our neutral commerce, and yet we are about to act as if France had indeed done all that we could ask of her. Not satisfied with doing all we promised, we are going on to volunteer our services in the cause of France. But, sir, if it were true that France had acted in good faith towards us, and if we were in consequence bound to take restrictive measures against Great Britain, yet would not the present measure be wise, politic, or just. Sir, what is it? While it professes to be a measure solely directed against Great Britain, its operation is to rob our own citizens of perhaps thirty millions of their property; for, in all probability, more than that amount will be liable to forfeiture if this bill should be carried rigidly into effect. Can it be possible, then, that from any implied obligation, this Committee can conceive themselves bound to plunder and to ruin their own citizens? I trust not, sir. After the view I have taken of the objects of Bonaparte, and which I solemnly believe to be correct, can we for a moment believe that our present measures can satisfy him? I cannot persuade myself that any honorable member of this Committee can be so weak as to believe it. Why, then, shall we not stop? Confiding in his promise of the 5th of August, (a promise intended only to deceive,) the proclamation has been issued, declaring the French decrees are revoked. The Emperor, believing he has got us in his toils, has the effrontery to say that they are not repealed, but that he will suspend them until he sees whether we will perform our promise of resisting Britain, and will hold our property as a security until the 2d of February. On that day, or at some future time, we shall be told that non-importation is too weak and impotent a measure of resistance, and that open and avowed hostility must be resorted to. When we shall have complied with that, we shall again be told, that warfare against England, to be effectual, must be directed against her manufactures; and that experience has convinced him that this can only be effectually done by burning them; and we shall then have advanced too far to recede. Thus, sir, we shall chain ourselves to the car of Napoleon, and become his abject vassals; and when we have lost our independence and our honor, instead of restoring his plunder to its rightful owners, we shall then be told, that, as we are engaged in a common cause, he can as well use the means which are in his hands as we could do, and we shall doubtless be called upon for new contributions.

Mr. Chairman, I would fain persuade myself that the Committee might be induced to pause and to reflect, before they proceed in this ruinous and destructive measure. Already have we done much to distress and injure our merchants and our country—if not altogether by commission, in part by omission. You have refused to renew the charter of the Bank of the United States—a measure called for by the best interests of our country. In this refusal, you have done much to de-

stroy our commercial prosperity. If you pass the present measure, I fear you lay the axe to its root, and insure its total destruction. But, what is infinitely worse, you give a pledge for your perseverance in the views and policy of the great enemy of the liberties of mankind. Not satisfied with the rapid progress he is making in the conquest of the civilized world, we are officiously tendering our humble services to him in the goodly work, and exhibiting the amazing spectacle of a free and independent nation sickening in the enjoyment of her prosperity and happiness, and making them a voluntary offering at the shrine of Despotism.

The amendment proposed by Mr. MUMFORD to Mr. EPPES's amendment was agreed to, sixty-three rising in the affirmative.

Mr. PITKIN said there was another class of our citizens who would be materially affected by the law of May last going into operation, besides those whom this law proposed to relieve. He meant those who traded to the West Indies. He took a view of the details of this trade, stated its profitable nature, and explained its operations, concluding with moving an amendment going to exempt from the operation of the law such vessels as had left ports of the West Indies before information had arrived there of the refusal of Great Britain to revoke her Orders in Council.

Mr. HAVEN supported the motion. He took a view of the course of our affairs since the first of May last. The vessels which had sailed from the United States to the West Indies, and not yet returned, had violated no law of the United States, had committed no offence. If the British Orders had been revoked, then their purpose had been meritorious, and the proceeds of their enterprise would have tended to replenish the Treasury; but, if not, because they had relied too much on the disposition of Great Britain to relax her orders, their voyage became unlawful, and they were subjected to the severest penalties. The high crime of violating the law was thus made to depend upon a contingency over which they had no control. Under these circumstances, Mr. H. thought that justice required the adoption of the amendment.

Mr. EPPES agreed with the two gentlemen who had preceded him, as to the relative value of the West India trade, but could not agree that the traders to that quarter should stand on the same footing, as to notice, as those to the East Indies. If the second of February was the time fixed for the operation of the law as to European ports, it could not be considered as injustice to apply the same period to West Indian ports. This proposition, however, went to extend the period of notice for the West Indian ports beyond the second of February, the time allowed for European ports, and would be an essential violation of the compact with France.

Mr. PITKIN replied at length. If this proposed amendment would be a breach of the compact with France, if such a compact exists, the bill reported by the Committee was equally so. The

one departure from the precise terms of it was as much a breach of the compact as the other.

Mr. PITKIN's amendment was negatived—yeas 42, nays 59.

Mr. TALLMADGE moved to amend the section by striking out the numbers designating the sections of the non-intercourse law, for the purpose of inserting the sections themselves, in the same words in which they stand in the former law.

Mr. EPPES opposed the motion on the ground of the loss of time which it would occasion, and the necessity there was for an early passage of the law.

Mr. TALLMADGE replied that every law which was passed should be made clear and intelligible, whatever time it would take to make it so. His motion was lost—yeas 42, nays 53.

Mr. VAN HORN moved to substitute the words "cleared out for the word "departed" from the ports of Great Britain before the second of February. Motion lost—yeas 46, nays 47.

Mr. RHEA of Tennessee moved to strike out all the section after the enacting clause, conceiving the whole bill and amendments to involve a breach of our compact with France. Motion lost—yeas 32.

Mr. R. then moved to amend the amendment proposed by striking out, from the clause exempting certain vessels from seizure, the words "departing from any British port prior to the second of February," with a view to insert the words, "from any port of the United States prior to the tenth day of November last." The motion was lost without a division.

Mr. MILNOR moved an amendment, going to give the Secretary of the Treasury a power to remit the penalties which may be incurred in certain cases under this law." The motion was lost—yeas 32.

Mr. BIGELOW said he could not doubt the disposition of gentlemen to relieve American property as far as they could from penalties, &c., and, therefore, moved to amend the section by inserting, after the exemption of vessels leaving Great Britain prior to the second of February, the words, "or from an American port, prior to the tenth day of November, 1810." Motion lost—yeas 32.

In the intervals between these motions, repeated motions were made for the Committee to rise, but without effect.

The Committee at length arose, about half-past five, reported the bill, and the House adjourned.

#### MONDAY, February 25.

Mr. FINDLEY presented a petition of the stockholders of the Bank of the United States, signed by D. Lenox, their President, praying a continuance of their corporate powers, for a further period, to enable them to adjust and settle such of their concerns as may be depending on the third day of March next; which was read, and referred to a select committee.

Mr. P. B. PORTER, Mr. EPPES, Mr. MACON, Mr. DAVENPORT, Mr. WILSON, Mr. SHAW, Mr.

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WHITEHILL, Mr. DESHA, and Mr. RINGGOLD, were appointed to the committee.

Mr. MORROW, from the Committee on the Public Lands, to whom was referred the bill from the Senate, entitled "An act making further provisions for the disposal of the sections of land heretofore reserved for the future disposition of Congress, and for other purposes," reported the same, with amendments, which were read, and, together with the bill, committed to a Committee of the Whole on Wednesday next.

Mr. MORROW, from the same committee, presented a bill for the revision of former confirmations, and for confirming certain claims to land in the district of Kaskaskia; which was read twice and committed to a Committee of the Whole to whom is committed the report of the same committee, of the fifteenth instant, on a report of the land commissioners for the district of Kaskaskia.

Mr. P. B. PORTER presented a petition of sundry inhabitants of the western parts of the State of Ohio, praying that a road may be laid out and opened, from a point at or near the head of Mad river, in Champaign county, to the head of the navigation of Sandusky river.—Referred to the Committee of the Whole on the bill to authorize the laying out of a public road from the line established by the treaty of Greenville to the North Bend, in the State of Ohio.

Mr. BASSETT, from the committee appointed, on the eighteenth ultimo, to inquire into the expediture of moneys appropriated for the Navy Department since the year 1803, and into the management of the several Navy Yards, laid before the House sundry documents.

On motion of Mr. BASSETT, the committee last mentioned were discharged from the farther consideration of the subject referred to them.

Mr. PICKMAN presented a petition of sundry manufacturers of Morocco leather, in the town of Lynn, praying that additional duties may be imposed upon the importation from foreign countries of Morocco leather.

Mr. CHEVES presented a petition of Stephen Lacoste, as agent of Joseph Avila, a Spanish subject, the owner of the schooner Juana, and as agent for a number of French passengers, owners of the cargo of the said schooner, stating that the said passengers were compelled by the Spaniards to leave the Island of St. Domingo, and that upon their arrival with their negro slaves in Charleston, the said vessel and cargo were seized for a violation of an act prohibiting the importation of slaves into the United States and their Territories, and praying relief.—Referred to the Committee of Commerce and Manufactures.

Mr. CHEVES, from the committee to whom was referred, on the twenty-first instant, the engrossed bill for the relief of John Macnamara, reported an amendment thereto; which was read, amended, and concurred in by the House.

Ordered, That the bill be re-engrossed, as amended, and read a third time to-day.

Mr. CHEVES laid before the House two letters from Thomas Parker, District Attorney for the

district of South Carolina, upon the subject of the inefficacy of certain provisions in the act of the second of March, 1807, prohibiting the importation of slaves into the United States and their Territories, and suggesting such amendments as in his opinion will remedy the defect; which were referred to the Committee of Commerce and Manufactures.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with the annual statement of the emoluments of the officers of the customs, for the year one thousand eight hundred and two.

#### COMMERCIAL INTERCOURSE.

The House resumed the consideration of the unfinished business of Saturday last, to wit: the bill supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," and the amendments reported thereto by the Committee of the whole House.

The said amendments were read at the Clerk's table, and are as follows:

"*Sec. 2. And be it further enacted*, That in case Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, the President of the United States shall declare the fact by proclamation; and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification in any suit or prosecution which may be instituted under the fourth section of the act to which this act is a supplement. And the restrictions imposed, or which may be imposed by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued.

"*Sec. 3. And be it further enacted*, That until the proclamation aforesaid shall have been issued, the several provisions of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' shall have full force, and be immediately carried into effect against Great Britain, her colonies, and dependencies: *Provided, however*, That any vessel or merchandise which may in pursuance thereof be seized, prior to the fact being ascertained, whether Great Britain shall, on or before the second day of February, 1811, have revoked or modified her edicts in the manner abovementioned, shall nevertheless be restored on application of the parties, on their giving bond with approved sureties to the United States, in a sum equal to the value thereof; and any such bond shall be considered as satisfied if Great Britain shall, on or before the second day of February, 1811, have revoked or modified her edicts in the manner abovementioned.

"*Provided, also*, That nothing herein contained shall be construed to affect the cargoes of ships or vessels, wholly owned by a citizen or citizens of the United States, which had cleared out for the Cape of Good Hope, or for any port beyond the same, prior to the tenth day of November, 1810."

The first amendment made by the Committee being under consideration—

Mr. RHEA of Tennessee, opposed it, because it contained no limitation of time within which this power might be exercised by the President; because it was a delegation of too much power to the President; and because the provision it contained must remain in force forever, unless repealed by law; although Great Britain should not (as he thought it probable she would not) revoke her edicts.

Mr. QUINCY.—Mr. Speaker: The amendments, contained in the sections under consideration, contemplate the continuance and enforcement of the non-intercourse law. This proposition presents a great, an elevated, and essential topic of discussion, due to the occasion and claimed by this people, which comprehends within the sphere and analogies of just argument the chief of those questions, the decision of which, at this day, involves the peace, the happiness, and honor of this nation. Whatever has a tendency to show, that, if the system of non-intercourse exist, it ought not to be continued; or, that if it do not exist it ought not to be revived; whatever has a tendency to prove, that we are under no obligation to persist in it, nor under any obligation to abandon it, is now within the fair range of debate.

After long delay, and much coy demeanor, the Administration of this country have condescended to develop their policy. Though they have not spoken to our mortal ears, with their fleshly tongues, yet they have whispered their purposes through the constituted organs of this House. And these are the features of the policy which they recommend. It is proposed to grant particular and individual relief from anticipated oppressions of the commercial restrictive system. It is proposed to perpetuate that system, indefinitely, and leave our citizens, still longer, subject to its embarrassments, its uncertainty and its terrors. The chairman of our Committee of Foreign Relations, (Mr. EPPES,) at the time he introduced these amendments to the House, exhibited the true character of this policy, when he told us, that it was "modelled upon the principle not to turn over to the Judiciary the decision of the existence of the non-intercourse law, but to make it the subject of Legislative declaration." In other words, it is found that the majority of this House have too much policy to deny and too much principle to assert, that the fact, on which, and on which alone, the President of the United States was authorized to issue his proclamation of the second of November last, has occurred. A scheme has, therefore, been devised, by which, without any embarrassment on this intricate point, the continuance and enforcement of non-intercourse may be insured, and toils, acceptable to France, woven by the hands of our own Administration, spread over almost the only remaining avenue of our commercial hope.

The proposition, contained in these amendments, has relation to the most momentous and most elevated of our Legislative obligations. We are not, now, about to discuss the policy by which a princely pirate may be persuaded to relinquish his plunder; nor yet the expectation entertained

of relaxation, in her belligerent system, of a haughtiness and perhaps jealous rival; nor yet the faith which we owe to a treacherous tyrant; nor yet the fond, but frail hopes of favors from a British regency, melting into our arms, in the honeymoon of power. The obligations which claim our observance are of a nature much more tender and imperious; the obligations, which, as Representatives, we owe to our constituents; the allegiance by which we are bound to the American people; the obedience, which is due to that solemn faith, by which we are pledged to protect their peace, their prosperity, and their honor. All these high considerations are materially connected with this policy.

It is not my intention, Mr. Speaker, to dilate on the general nature and effects of this commercial restrictive system. It is no longer a matter of speculation. We have no need to resort for illustration of its nature to the twilight lustre of history, nor yet to the vibrating brightness of human intellect. We have experience of its effects. They are above, around, and beneath us. They paralyze the enterprise of your cities. They sicken the industry of your fields. They deprive the laborer and the mechanic of his employment. They subtract from the husbandman and planter the just reward for that product, which he has moistened with the sweat of his brow. They crush individuals, in the ruins of their most flattering hopes, and shake the deep rooted fabric of general prosperity.

It will, however, be necessary to say a word on the general nature of this system. Not so much for the purpose of elucidating, as to clear the way, and give distinctness to the course of my argument. It will also be useful to deprive the advocates of this system of those colors and popular lures, to which they resort, on a subject in no way connected with the objects with which they associate it.

My argument proceeds upon the assumption of the irrelevancy of four topics, usually adduced in support of the system contained in the law of May, 1810, and of March, 1809; commonly called the non-intercourse system. I take for granted, that it is not advantageous; in other words, that it is injurious; that it is not fiscal, in its nature; nor protective of manufactures; nor competent to coerce either belligerent. That it is injurious is certain, not only because it is deprecated by that part of the community, which it directly affects, but because no man advocates it as a permanent system, and every one declares his desire to be rid of it. Fiscal it cannot be, because it prohibits commerce, and consequently revenue; and by the high price and great demand for foreign articles, which it produces, encourages smuggling. Protective of manufactures it cannot be; because it is indiscriminate in its provisions and uncertain in its duration; and this uncertainty depends, not on our Legislative discretion, but on the caprice of foreign Powers; our enemies, or rivals. No commercial system, which is indiscriminate in its restrictions, can be generally protective to manufactures. It may give a forced

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vivacity to a few particular manufactures. But in all countries, some, and in this almost all manufactures depend, either for instruments, or subjects, on foreign supply. But, if this, were not the case, a system, whose continuance depended upon the will or the ever variant policy of foreign nations, can never offer such an inducement to the capitalist, as will encourage him to make extensive investments, in establishments resting on such precarious foundations. As to the incompetency of this system to coerce either belligerent, I take that for granted, because no man, as far as I recollect, ever pretended it; at least no man ever did show, by any analysis, or detailed examination of its relative effects on us, and either belligerent, that it would necessarily coerce either, out of that policy which it was proposed to counteract. Embargo had its friends. There were those who had a confidence in its success. But who was ever the friend of non-intercourse? Who ever pretended to believe in its efficacy? The embargo had a known origin, and the features of its character were distinct. But "where, and what was this execrable shape—if shape it may be called, which shape has none?" We all know that the non-intercourse was not the product of any prospective intelligence. It was the result of the casual concurrence of chaotic opinions. It was agreed upon, because the majority could agree upon nothing else. They, who introduced it, abjured it. They, who advocated it, did not wish, and scarcely knew its use. And now that it is said to be extended over us, no man, in this nation, who values his reputation, will take his bible oath that it is in effectual and legal operation. There is an old riddle on a coffin, which I presume, we all learnt when we were boys, that is as perfect a representation of the origin, progress, and present state of this thing, called non-intercourse, as is possible to be conceived.

"There was a man, bespoke a thing,

"Which when the maker home did bring,

"That same maker did refuse it,

"The man that spoke for it did not use it,

"And he who had it did not know

"Whether he had it;—yea, or no."

True it is, that if this non-intercourse shall ever be, in reality, extended over us, the similitude will fail, in a material point. The poor tenant of the coffin is ignorant of his state. But the poor people of the United States will be, literally, buried alive in non-intercourse; and realize the grave closing on themselves and their hopes with a full and cruel consciousness of all the horrors of their condition.

For these reasons, I put all such common-place topics out of the field of debate. This, then, is the state of my argument; that as this non-intercourse system is not fiscal, nor protective of manufactures, nor competent to coerce, and is injurious, it ought to be abandoned, unless we are bound to persist in it, by imperious obligations. My object will be to show that no such obligations exist; that the present is a favorable opportunity, not to be suffered to escape, totally to relinquish it; that it is time to manage our own

commercial concerns, according to our own interest; and no longer put them into the keeping of those who hate or those who envy their prosperity; that we are the constituted shepherds, and ought no more to transfer our custody to the wolves.

It is agreed, on all sides, that it is desirable to abandon this commercial restrictive system. But the advocates of the measure, now proposed, say that we cannot abandon it, because our faith is plighted. Yes, sir, our faith is plighted; and that, too, to that scrupulous gentleman, Napoleon; a gentleman so distinguished for his own regard of faith; for his kindness and mercies towards us; for angelic whiteness of moral character; for overweening affection for the American people and their prosperity. Truly, sir, it is not to be questioned, but that our faith should be a perfect work towards this paragon of purity. On account of our faith, plighted to him, it is proposed to continue this non-intercourse.

But, Mr. Speaker, we may be allowed, I presume, to inquire whether any such faith be plighted. I trust, we are yet freemen. We are not yet so far sunk in servility, that we are forbidden to examine into the grounds of our national obligations. Under a belief that this is permitted, I shall enter upon the task, and inquire whence they arise and what is their nature.

Whence they arise is agreed. Our obligations result, if any exist, under the act of May the first, 1810, called "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes." It remains, therefore, to inquire into the character of this act, and the obligations arising under its provisions.

Before, however, I proceed, I would premise, that whether I shall obtain, I am doubtful, but I am sure that the nature of my argument deserves, the favor and prepossession for its success, of every member in the House. My object is to show, that the obligation which we owe to the people of the United States, is a free and unrestricted commerce. The object of those who advocate these measures is to show that the obligation we owe to Napoleon Bonaparte, is a commerce restricted and enslaved. Now, as much as our allegiance is due more to the people of the United States, than it is to Napoleon Bonaparte, just so much ought my argument to be received by the American Congress, with more favor and prepossession than the argument of those who advocate these measures. It is my intention to make my course of reasoning as precise and distinct as possible. Because I invite scrutiny. I contend for my country according to my conscientious conceptions of its best interests. If there be fallacy detect it. My invitation is given to generous disputants. As to your stump orators, who utter low invective and mistake it for wit, and gross personality, and pass it off for argument, I descend not to their level; nor recognise their power to injure; nor even to offend.

Whatever obligations are incumbent upon this nation, in consequence of the act of the first of

May, 1810, they result from the following section: "*And be it further enacted*, That in case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter, so revoke or modify her edicts, in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' shall, from and after the expiration of three months, from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees, in the manner aforesaid."

Divested of technical expression, this is the abstract form of this section. It provides that a new commercial condition shall result, on the occurrence of a specified fact; which fact the President shall declare. On this state of the subject I observe that nothing in the act, indicates whether the object of the United States, in providing for this eventual commercial condition, was its own benefit, convenience, or pleasure; or whether it was in the nature of a proffer to foreign nations. It will, however, be agreed on all sides, that the object was either the one or the other. If the object were our own benefit, convenience, or pleasure, it will not be pretended that we are under any obligation to continue the system. For that which was adopted, solely for either of these ends, may, whenever our views concerning them vary, be abandoned; it being the concern of no other. But it is said that the act was, in truth, a proffer to the two belligerents, of commerce to the obsequious nation, prohibition of commerce to the contumacious nation. If this were the case, I shall agree, for the sake of argument, that it ought to be fulfilled to the full extent of the terms. But inasmuch as there is, in the terms of the act, no indication of such a proffer, it follows that its nature must arise from the circumstances of the case; and that the whole of the obligation, whatever it is, grows out of an honorable understanding, and nothing else. As such, I admit, it should be honorably fulfilled. The nature of this proffer is that of a proposition upon terms. Now what I say, is, and it is the foundation of my argument, that whoever claims an honorable compliance with such a proposition, must be able to show, on his part, an honorable acceptance and fulfilment of the terms. The terms our act proposed were—an act to be done; an effect to be produced. The act to be done was, the revocation or modifica-

tion of the edicts. The effect to be produced was that this revocation or modification should be such as that these edicts should "cease to violate our neutral commerce." Now the questions which result are, has the act been done? If done, has it been so done as to amount to an honorable fulfilment or acceptance of our terms? The examination of these two points will explain the real situation of these United States, and the actual state of their obligations.

In considering the question whether the fact of revocation, or modification, has occurred, it is unfortunate that it does involve, at least in popular estimation, the propriety of the proclamation, issued on the second of November last, by the President of the United States. I regret, as much as any one, that such is the state of things, that the question, whether a foreign despot has done a particular act, seems necessarily to be connected with the question, concerning the prudence and perspicacity with which our own Chief Magistrate has done another act. I say in popular estimation these subjects seem so connected. I do not think that in the estimation of wise and reflecting men, they are necessarily thus connected. For the fact might not have occurred precisely in the form contemplated by the act of May, 1810, and yet the President of the United States in issuing his proclamation might be either justifiable or excusable. It might be justifiable. A power intrusted to a politician to be used on the occurrence of a particular event, for the purpose of obtaining a particular end, he may sometimes be justifiable in using, in a case which may not be precisely that originally contemplated. It may be effectually though not formally, the same. It may be equally efficient in attaining the end. In such a case a politician never will, and perhaps ought not to hesitate at taking the responsibility, which arises from doing the act in a case not coming within the verbal scope of his authority. Thus, in the present instance. The President of the United States might have deemed the terms, in the letter of the Duke of Cadore, such as gave a reasonable expectation of acceptance on the part of Great Britain. He has taken the responsibility. He has been deceived. Neither Great Britain accepts the terms, nor France performs her engagements. The proclamation might thus have been wise, though unfortunate in its result. And as to excuse, will it be said, that there is nothing of the sort in this case? Why, sir, our Administration saw the Great Napoleon, according to his own confession, over head and ears in love with the American people. At such a sight as this, was it to be expected of flesh and blood, that they should hesitate to plunge into a sea of bliss, and indulge in joy with such an amorous Cyprian?

But, whether the fact has occurred, on which alone this proclamation could have legally issued, is a material inquiry and cannot be evaded, let it reach where or whom it will. For with this is connected the essential condition of this country; on this depends the multiplied rights of our fellow-citizens, whose property has been or may be



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seized or confiscated under this law: and hence result our obligations, if any, as is pretended, exist. It is important here to observe, that, according to the terms of the act of May 1, 1810, the law of March 1, 1809, revives on the occurrence of the fact required, and not on the proclamation issued. If the fact had not occurred, the proclamation is a dead letter, and no subsequent performance of the required fact, by either belligerent, can retroact so as to give validity to the previous proclamation. The course required by the act of the 1st of May, 1810, unquestionably is, that the fact required to be done should be precedent, in point of time, to the right accruing to issue the proclamation; and of consequence that, by no construction, can any subsequent performance of the fact required operate backward to support a proclamation issued previous to the occurrence of that fact? Whenever this fact is, really done, a new proclamation is required to comply with the provisions of the act, and to give efficacy to them.

I am the more particular in referring to this necessary construction, resulting from the terms of the act of the first of May last, because it is very obvious that a different opinion did until very lately, and probably does now, prevail on this floor. We all recollect what a state of depression the conduct of Bonaparte in seizing our vessels, subsequent to the first of November, produced, as soon as it was known in this House, and what a sudden joy was lighted up in it, when the news of the arrival of a French Minister was communicated. Great hopes were entertained and expressed, that he would bring some formal revocation of his edicts, or disavowal of the seizures which might retroact and support the proclamation. It was confidently expected that some explanation, at least, of these outrages, would be contained in his portmanteau; that under his powder-puff, or in his snuff box, some dust would be found to throw into the eyes of the American people, which might so far blind the sense, as to induce them to acquiesce in the enforcement of the non-intercourse, without any very scrupulous scrutiny into the performance of the conditions by Bonaparte. But, alas! sir, the Minister is as parsimonious as his master is voracious. He has not condescended to extend one particle, not one pinch of comfort to the Administration. From anything in the Messages of our President, it would not be so much as known that such a blessed vision, as was this new Envoy, had saluted his eyes. His communications preserve an ominous silence on the topic. Administration, after all their hopes, have been compelled to resort to the old specific, and have caused to be tipped upon our tables a cart-load of sand, grit, and sawdust, from our metaphysical mechanic, who seesaws at St. James', as they pull the wire here in Washington. Yes, sir, a letter written on the tenth day of December last, by our Minister in London, is seriously introduced to prove, by abstract reasoning, that the Berlin and Milan decrees had ceased to exist on the first of the preceding November, of whose

existence, as late as the 25th of last December, we have, as far as the nature of things permit, ocular, auricular, and tangible demonstration. And the people of this country are invited to believe the logic of Mr. Pinkney in the face of the fact of a continued seizure of all the vessels which came within the grasp of the French custom-house, from the first of November, down to the date of our last accounts; and, in defiance of the declaration of our Chargé d'Affaires, made on the 10th of December, that "it will not be pretended that the decrees have in fact been revoked," and in utter discredit of the allegation of the Duke of Massa, made on the 25th of the same month, which, in effect, declares the Berlin and Milan decrees exist, by declaring "that they shall remain suspended." After such evidence as this, the question whether a revocation or modification of the edicts of France has so occurred "as that they cease to violate the neutral commerce of the United States," does no longer depend upon the subtleties of syllogistic skill, nor is to be disproved by any power of logical illusion. It is an affair of sense and feeling. And our citizens, whose property has been, since the first of November, uniformly seized, and of which they are avowedly to be deprived three months, and which is then only to be returned to them on the condition of good behaviour, may as soon be made to believe, by the teaching of philosophy, that their rights are not violated, as a wretch, writhing under the lash of the executioner, might be made by a course of reasoning to believe, that the natural state of his flesh was not violated, and that his shoulders, out of which blood was flowing at every stroke, were in the quiet enjoyment of cuticular ease.

Whether the revocation expressed in the letter of the Duke of Cadore, was absolute or conditional, or whether the conditions were precedent or subsequent, in the present state of our evidence, it seems scarcely important to inquire. Yet the construction of that celebrated passage, in his letter of the 5th of August, has been, as I have ever seen, given so much in the manner of lawyers, and so little in that of statesmen, that it deserves a short elucidation; how much the words "it being understood that," in their particular position are worth; and whether they have the effect of a condition precedent, or of a condition subsequent. A statesman will look at the terms contained in that letter in a different aspect, not for the purpose of ascertaining how much a court of law might be able to make of them, as to discern in what position of language the writer intended to intrench himself, and to penetrate his real policy, notwithstanding the veil in which he chose to envelope it. He will consider the letter in connexion with the general course of French policy, and the particular circumstances which produced it. By these lights, it is scarcely possible to mistake the character and true construction of these expressions. Upon recurring to the Berlin and Milan decrees, it will be found that they contain a solemn pledge, that "they shall continue to be rigorously in force, as

long as that (the English) Government does not return to the principle of the law of nations." Their determination to support this pledge, the French Government has uniformly and undeviatingly declared. They have told us constantly that they required a previous revocation on the part of Great Britain, as the condition of their rescinding those edicts. The question who should first revoke their edicts had come to be, notoriously, a sort of point of honor between the two belligerents. Perfectly acquainted with this state of things, we have been perpetually negotiating between the one and the other, and contending with each that it was his duty previously to revoke. At length the French Government, either tired with our solicitations, or more probably, seeing their own advantage in our anxiety to get rid of these decrees, which yet, as an essential part of its continental system of total commercial exclusion it never intended to abandon, devised this scheme of policy, which has been the source of so much contest, and has puzzled all the metaphysicians in England and the United States. Cadore is directed to say to Mr. Armstrong: "In this new state of things I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the first of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council, and renounce the new principles of blockade which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English." In this curious gallimaufry of time present and time future, of doing and refraining to do, of declaration and understanding, of English duties and American duties, it is easy to trace the design, and see its adaptation to the past and present policy of the French Emperor. The time present was used, because the act of the United States required that previously to the proclamation the edicts "shall be" revoked. And this is the mighty mystery of time present being used, in expressing an act intended to be done in time future. For if, as the order of time, and the state of intention indicated, time future had been used, and the letter of Cadore had said the decrees shall be revoked on the first of November next, then the proclamation could not be issued, because the President would be obliged to wait to have evidence that the act had been effectually done. Now as the French Emperor never intended that it should be effectuated, and yet meant to have all the advantage of an effectual deed without performing it, this notable scheme was invented. And, by French finesse, and American acquiescence, a thing is considered as effectually done, if the declaration that it is done be made in language of time present, notwithstanding the time of performance is in the same breath declared to be in time future. Having thus secured the concurrence of the American administration, the next part of the scheme was so to arrange the expression that either the

British Government should not accede, or if it did accede, that it should secure to France the point of honor—a previous revocation by the British; and if they did not accede, that there should be a color for seizures and sequestrations, and thus still further to bind the Americans over to their good behaviour. All this is attained by this well-devised expression "it being understood that, in consequence of this declaration, the English shall revoke."

Now, Great Britain either would accede to the terms, or she would not. If she did, and did it as the terms required, in consequence of this declaration, then it must be done previous to the first of November, and then the point of honor was saved to France; so that thus France, by a revocation verbally present, effectually future, would attain an effectual previous revocation from the English. But if, as France expected, Great Britain would not trust in such paper security, and therefore not revoke, previously to the first of November, then an apology might be found for France, to justify her in refusing to effectuate that present, future, and absolute, conditional revocation. And if ever the Duke of Cadore shall condescend, which it is probable he never will, to reason with our Government on the subject, he may tell them that they knew that the French Emperor had issued those decrees, upon the pledge that they were to continue until the British abandoned their maritime principles; that he told us, over, and over, and over again, that previous revocation by the British was absolutely required; that for the purpose of putting to trial the sincerity of the British, he had indeed declared that the French decrees "are revoked," on the first day of November ensuing; but then it was on the expressed condition that *in consequence of that declaration*, not of the revocation, but of *that declaration*, the British were to revoke, and, if they did not, the "understanding" was not realized; and his rights of enforcing his system remained to him. And I confess I do not well see, what answer can be made to such an argument. Let us examine the case in common life. You, Mr. Speaker, have two separate tracts of land, each lying behind the farms of A and B, so that you cannot get to one of the tracts, without going over the farm of A, nor to the other tract, without going over the farm of B. For some cause or other, both A and B have a mutual interest that you should enjoy the right of passage to your tract, over the farm of each respectively. A and B get into quarrels and wish to involve you in the dispute. You keep aloof, but are perpetually negotiating with each for your old right of passage-way, and telling each that it is owing to him that the other prohibits your enjoyment of it. At last A says "Come. We will put this B to trial. I, on this fifth day of August, declare my prohibitions of passage-way are revoked, and, after the first day of November, my prohibitions shall cease to have effect; but, it is understood, that B, *in consequence of this declaration*, shall also revoke his prohibition of passage-way." If B refuses, does A, under the circumstances of

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such a declaration, violate any obligation, should he refuse to permit the passage? Might not A urge with great color and force of argument, that this arrangement was the effect of your solicitation and assurance, that B would be tempted by such a proffer, and that the revocation of B was required, by the terms, to be the consequence of A's declaration, for the very purpose of indicating that it must be anterior to the fact of A's effectual revocation? But let this be as it will; suppose that you, on the first of November, in consequence of A's assurances, had sent your servants and teams to bring home your products, and A should seize your oxen, and teams and products; and drive your servants, after having stripped them, from his farm, and should tell you, that he should keep this, and all other property of yours, on which he can lay his hands, for three months, and then he should restore it to you, or not, as he saw fit, according to his opinion of your good behaviour. I ask, if, in any sense, you could truly say that on the first day of November the prohibitions or edicts of A were so revoked, that they ceased to violate your liberty of passage? Sir, when viewed in relation to common life, the idea is so absurd, that it would be absolutely abusive to ask the question. I refer the decision of so simple a case to the sound sense of the American people, and not to that of "scurvy politicians, who seem to see the things they do not." In a condensed form my argument is this. From a revocation merely verbal, no obligations result. By the terms of our act the revocation must be effectual, "so as the edict shall cease to violate our rights." Now the simple question is, whether an uniform seizure, since the first of November, under those edicts (for none other are pretended) of all their property, and holding it for three months, to see how they will behave, be or not a violation of the rights of the American people? In relation to the revival by a formal declaration of the non intercourse system, as is proposed in one of these sections, I offer this argument: Either the fact, on which the President's proclamation could alone have been issued, has occurred or it has not. If it has occurred, then the law of March 1809, is revived, and this provision, by a declarative law, is unnecessary. If it have not occurred, then there is no obligation to revive it, for alone on the occurrence of the specified fact does our obligation depend. In such case the revival by declaration is a mere gratuity to Napoleon. This is in fact the true character of the law. As to the provisions for relief of our merchants against anticipated seizure, I hold them scarcely deserving consideration. Heaven be praised we have independent tribunals and intelligent juries. Our judges are not corrupt and our yeomanry will not be swayed in their decisions, by the hope of Presidential favors, nor be guided by party influence. The harpies of your custom-house dare as soon eat off their own claws, as thrust them, in the present state of the law of March, 1809, into the fatness of their fellow-citizens. The timorous and light-shunning herd of spies and informers have too much instinct, to pounce on such a prey.

But, in order to cause any obligation to result under the law of May 1, 1810, it is necessary, not only that the fact required be done, and the effect required produced; but also the terms of that act must be accepted. The proffer we made, if such be the character of that act, was only to revive the non-intercourse law against the contumacious belligerent, after three months had expired, from the date of the proclamation. Now it is remarkable, that, so far from accepting the terms of the proposition, contained in our act, as the extent of our obligations, Bonaparte expressly tells us, that they mean something else; and something, too, that no man in this House will dare to aver they really intend. It is also remarkable that the terms of this celebrated letter from the Duke of Cadore, of the fifth of August, which have been represented as a relaxation, in the rigor of the French Emperor's policy, are, in fact, something worse than the original terms of the Milan decree, and that, instead of having obtained a boon from a friend, in this boasted letter, our Administration have only caught a gripe from a Tartar. By the terms of the Milan decree, it was to "cease with respect to all nations who compelled the English to respect their flag." By the terms of the letter of Cadore, it was to cease on condition that the United States "cause their rights to be respected." Now as much as an obligation, of an indefinite extent, is worse than a definite obligation, just so much worse are the terms of the letter of Cadore, than the original terms of the Milan decree. Mr. Speaker, let us not be deceived concerning the policy of the French Emperor. It is stern, unrelenting, and unrelaxing. So far from any deviation from his original system being indicated in this letter of the Duke of Cadore, a strict adherence to it is formally and carefully expressed. Ever since the commencement of "his continental system," as it is called, the policy of Napoleon has uniformly been to oblige the United States to effectual co-operation in that system. As early as the 7th of October, 1807, his Minister, Champagny, wrote to General Armstrong, that the interests of all maritime Powers were common, to unite in support of their rights against England. After this followed the embargo which co-operated effectually at the very critical moment, in his great plan of continental commercial restriction. On the 24th of the ensuing November, he resorts to the same language—"in violating the rights of 'all nations England has united them all by a 'common interest, and it is for them to have recourse to force against her." He then proceeds to invite the United States to take "with the whole 'Continent the part of guaranteeing itself from 'her injustice, and in forcing her to a peace."

On the 15th of January, 1808, he is somewhat more pointed and positive, as to our efficient concurrence in his plan of policy. For his Minister, Champagny, then tells us, that "His Majesty has no doubt of a declaration of war against England by the United States," and he then proceeds to take the trouble of declaring war out of our hands, and volunteers his services, gratuitously, to declare it, in our name and behalf. "War exists

' then, in fact between England and the United States; and His Majesty considers it as declared from the day on which England published her decrees." And, in order to make assurance doubly sure, he sequesters our vessels in his ports, "until a decision may be had on the dispositions to be expressed by the United States," on his proposition of considering themselves "associated in the cause of all the Powers," against England. Now in all this there is no deception, and can be no mistake, as to the purpose of his policy. He tells us, as plain as language can speak, that "by causing our rights to be respected," he means war, on his side, against Great Britain. That "our interests are common"—that he considers us, already "associates in the war," and that he sequesters our property by way of security for our dispositions. This is his old policy. I pray some gentlemen on the other side of the House to point out, in what it differs from the new. The letter of Cadore on the fifth of August tells us, it is expected that we "cause our rights to be respected, in conformity to our act," and the same letter also tells us what he understands to be the meaning of our act. "In short, Congress engages to oppose itself to that one of the belligerent Powers which shall refuse to acknowledge the rights of neutrals." In other words, "by causing our rights to be respected," he means war on his side against Great Britain. In perfect conformity with this uniform, undeviating policy, his Minister, Turreau, tells our Government, in his letter of the 28th of November last, that "the modifications to be given to the present absolute exclusion of our products will not depend upon the chance of events, but will be the result of measures, firm and pursued with perseverance, which the two Governments will continue to adopt to withdraw from the monopoly and from the vexations of the common enemy a commerce loyal and necessary to France as well as the United States." And to the end, that no one feature of his policy should be changed, or even appear to be relaxed, his Excellency the Duke of Massa, and his Excellency the Duke of Gaete, in their respective letters of the 25th of December, declare, that the property taken, shall be "only sequestered until the United States have fulfilled their engagements to cause their rights to be respected." Now, Mr. Speaker, is there a man in this House bold enough to maintain, or with capacity enough to point out, any material variation, between the policy of France, to this country, subsequent to the Cadore letter, of the 5th of August, and its policy anterior to that period? The character of the policy is one and indivisible. Bonaparte had not yielded one inch to our Administration. Now, as he neither performed the act, required by the law of May, 1810; nor produced the effect; nor accepted the terms it proposed; whence arise our obligations? How is our faith plighted? In what way are we bound again to launch our country into this dark sea of restriction; surrounded on all sides with perils and penalties?

The true nature of this Cadore policy is alone

to be discovered in the character of his master. Napoleon is an universal genius. "He can exchange shapes with Proteus to advantage." He hesitates at no means, and commands every skill. He toys with the weak—he tampers with the mean—he browbeats the haughty—with the cunning he is a serpent. For the courageous he has teeth and talons. For the cowering he has hoofs. He found our Administration a pen and ink gentry—parchment politicians; and he has laid, for these ephemeral essences, a paper fly trap, dipped in French honey. Hercules, finding that he could not reach our Administration with his club, and that they were out of their wits at the sight of his lion's skin, has condescended to meet them in petticoats, and conquer them, spinning at their own distaff.

As to those who, after the evidence now in our hands, deny that the decrees exist, I can no more reason with them than with those who should deny the sun to be in the firmament, at noon-day. The decrees revoked! The formal statute act of a despot revoked by the breath of his servile Minister; uttered on conditions not performed by Great Britain, and claiming terms not intended to be performed by us! The fatness of our commerce secure, when every wind of heaven is burdened with the sighs of our suffering seamen, and the coast of the whole Continent heaped with the plunder of our merchants! The den of the tiger safe! Yet the tracks of those who enter it are innumerable, and not a trace is to be seen of a returning footstep! The den of the tiger safe! While the cry of the mangled victims are heard through the adamant walls of his cave; cries, which despair and anguish utter, and which despotism itself cannot stifle!

No, Mr. Speaker. Let us speak the truth. The act now proposed is required by no obligation. It is wholly gratuitous. Call it then by its proper name. The first fruit of French alliance. A token of transatlantic submission. Anything except an act of an American Congress, the Representatives of freemen.

The present is the most favorable moment for the abandonment of these restrictions, unless a settled co-operation with the French continental system be determined. We have tendered the provisions of this act to both belligerents. Both have accepted—both, as principals, or by their agents, have deceived us.

We talk of the edicts of George the Third and Napoleon. Yet those of the President of the United States, under your law, are far more detestable to your merchants. Their edicts plundered the rich. His make those who are poor still poorer. Their decrees attack the extremities. His proclamation fixes upon the vitals, and checks the action of the seat of commercial life.

I know that great hopes are entertained of relief from the proposed law, by the prospect of a British regency. Between a mad monarch and a simpering successor, it is expected the whole system of that nation will be abandoned. Let gentlemen beware, and not calculate too certainly on the fulfilment, by men in power, of professions

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made out of it. The majority need not go out of our own country, nor beyond their own practice, to be convinced how easily, in such cases, proud promises may eventuate in meagre performance.

The whole bearing of my argument is to this point. It is time to take our own rights into our own keeping. It is time, if we will not protect, to refrain from hampering, by our own acts, the commerce of our country. Put your merchants no longer under the guardianship and caprice of foreign Powers. Punish not, at the instigation of foreigners, your own citizens, for following their righteous calling. We owe nothing to France. We owe nothing to Great Britain. We owe everything to the American people. Let us show ourselves really independent; and look to a grateful, a powerful, and then united people, for support, against every aggressor.

Mr. MUMFORD—The gentleman (Mr. QUINCY) from Massachusetts has given us a long talk, that amused the House very much with tropes and figures, and I hope has convinced himself that he is right. I am no advocate of either belligerent, I have not much confidence in the declarations of foreign Governments. I did, however, put some confidence in the Erskine arrangement, but I was deceived; it met my approbation, because I was among those who were determined to settle our disputes with Great Britain, in our own way, as an independent nation. And I will now ask the gentleman from Massachusetts whether, if the Chancellor of the Exchequer, or any other higher authority in Great Britain, should write a letter to Sir William Scott, and a circular letter to the Collector of Liverpool, informing them that the Orders in Council did not apply to American vessels from and after the 1st November, he would not deem those letters to be evidence of the fact? If so, why not give the same credence to the letters of the Duke of Massa and the Duc de Gaete? I wish to preserve the faith of the nation. We have been plundered by both belligerents, and have as little confidence in the one as in the other; but without some reliance on the word of constituted authorities there is an end to all negotiations. The gentleman says that we are about to shut up "the only avenue to our commercial hope." These are his own words. Let us now examine this avenue to our commercial hope. I will in the first place ask the indulgence of the House while I read and state some facts from a letter I have just received from Liverpool, dated January 8, of the present year, from one of the most respectable houses there, which states that the importation of cotton from the United States was 320,000 bales in 1810; that there was then 145,000 bales on hand; tobacco imported in same period, 14,700 hogsheads; and, notwithstanding the consumption, the quantity imported kept the market supplied constantly with about the same number of hogsheads, throughout the year 1810. Pot-ashes imported 28,946 barrels, on hand 13,000 barrels; rice 39,000 imported, and there remains on hand very large supplies. Those are the principal articles of the produce of

our soil unsold on 8th of January, 1811, in the port of Liverpool alone, besides the quantities in the other ports of Great Britain; and the same letter observes: "This supply checks any attempt at speculation, and without an export vent 'is procured, the stock on hand must remain unsaleable; if the belligerents return to a sense of justice, the continental markets being in that case 're-opened, will require large supplies, and cause 'our market to rise.'" The prices of upland cotton are stated at 12d. sterling per lb; tobacco, very prime 4d. to 7d., middling quality, great quantity on hand, fit only for Continental market, at 1½ a 4d; pot-ashes 43 to £44 per ton—rice 19 to 23 per cwt." Sir, there is no American merchant who can pursue that commerce, attended with the enormous charges and duties imposed on those articles without inevitable ruin; and I call to the recollection of gentlemen the numerous failures in consequence of bills of exchange returned under protest, which had been predicated on shipments to British ports; and yet the gentleman from Massachusetts tells us this is "the only avenue to our commercial hope." Send your vessels to the Brazils, you meet them there intriguing against your commerce; to Buenos Ayres, you find them there; to Cayenne, there also; to Terra Firma, you there find them in conjunction with Miranda intriguing, and counteracting your commerce; to Barbadoes, Surinam, Demerara, Trinidad, Martinique, Guadaloupe, Jamaica, &c., and you are met with enormous port charges, and duties amounting to prohibition on the staple articles of the new England States; cod fish, beef, pork, butter, lard, cheese, hams, &c. It is true we are admitted every now and then, at the mere will and caprice of a governor, to import into those colonies flour at a duty of one dollar per barrel; rice and lumber in proportion; on condition that you shall not take away any article but rum and molasses, and this is the only avenue to our commercial hope. They are like the locusts of Egypt in relation to our commerce. What has become of your 1,350,000 tons of shipping, valued at fifty dollars per ton, amounting to \$67,500,000, one third of which belongs to Massachusetts? Is the gentleman willing to surrender the carrying trade to Great Britain? Let him turn his attention to the ports of New York, Philadelphia, Baltimore, Norfolk, Charleston, and New Orleans, and he will find that British ships are now taking the bread out of the mouths of his own constituents. They are enabled to take freight on so much lower terms than American vessels can afford to do it, in consequence of the very great difference of duties in Great Britain, between importations in American or in a British ship, that we cannot compete with them, unless you will countervail them, and take a decisive stand in defence of your commerce to continental Europe, and carry your produce direct to the consumers, and be no longer subjected to be fleeced by the monopolizers and retailers of the old world. They are not content to have the whole products of your soil deposited on their island, on which they receive an enormous import, and raise an extra war tax, besides,

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but they will claim very soon the exclusive right to carry it when and where they please in their own ships. We are thus reduced to a worse situation than in a state of colonization; we have now all the disadvantages of being plundered by their navy, and none of the advantages of receiving its protection, although they have the impudence to charge us four per cent. convoy duty on their gewgaws and manufactures, which convoy they do not give us. Can this be a desirable state of things? And if persevered in, I am convinced the commerce of the United States will descend into the same tomb with the gentleman's story of the coffin.

There are three classes of your citizens to be provided for, as contemplated in the provisions of this bill—first, sequestrations in France, Spain, Italy, Holland, Denmark, Sweden, Prussia, and Russia. Second, those who have sailed to France under the faith of the Duke of Cadore's letter of the 5th of August. Third, importers of British manufactures. But it would seem, by the arguments I have heard advanced in this House, that there were only the latter class to be provided for, and, as I presume British precedent and authority will be admitted by the gentleman from Massachusetts to be good evidence, I will inform him and the House what were the concurrent testimony of the English merchants before the bar of the House of Commons on the subject of exports and imports of the United States. They stated on oath that the exports to the United States were about twelve millions sterling, and that the imports were about four millions on an average for the years 1802, 1803, 1804, when there were no decrees against American commerce, and consequently it took its own natural channel and supplied each market according to its natural consumption. The difference between export and import being about eight millions sterling against us. Those English merchants state that it was made up and received from our trade with continental Europe; this has not been disproved by the British Chancellor of the Exchequer, nor by his friend Stevens, of War in Disguise—it is a fact; they cannot deny it. And shall we be told about the profitable commerce with Great Britain? After a statement of these facts, shall we go on to gorge their warehouses with twelve millions sterling of produce, when their own internal consumption does not exceed four millions sterling? I hope not; and I do trust that the time is not far distant when we shall assert and defend our just rights.

Mr. TALLMADGE moved to strike out of the first section of the amendment, the words, applied to the proclamation of the President, "and no other evidence shall be admitted," &c.

With the consent of Mr. TALLMADGE—Mr. LIVERMORE enlarged the motion, so as to strike out the words "and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification," &c. of the Orders in Council.

Mr. LIVERMORE spoke in support of the motion.

He conceived the clause proposed to be stricken out as involving a most arbitrary feature.

Mr. ROSS said that the gentleman's reasoning went to prove that a court, instead of the Executive, should be vested with the power of deciding the fact.

Mr. WRIGHT spoke against the motion. The power proposed to be given to the President of the United States in this case was analogous to the proclamation of a treaty, which then became the law of the land, &c. It was the only evidence which could be admitted.

Mr. LYON and Mr. WHEATON also spoke in favor of the motion.

The question on Mr. LIVERMORE's motion was taken by yeas and nays. For the motion 50; against the motion 79, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Barent Gardenier, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Randolph, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Willis Alston, jr., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, John Cloptop, James Cochran, William Crawford, Richard Cutts, John Dawson, Jos. Desha, John W. Eppes, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, William Helms, James Holland, Jacob Hufty, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Witherspoon, and Robert Wright.

Mr. RHEA of Tennessee, adverting to the present want of limit to the time when Great Britain might revoke her unlawful edicts, and declaring his opinion that the section as it now stood contravened the compact with France, moved to amend it, so as to read—"if Great Britain shall,

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on or before the 2d of February, 1811, have so revoked or modified, &c. then the President," &c. to issue his proclamation, &c.

Mr. R. spoke in support of his proposition, declaring that if the section was amended as he proposed, he should vote for it; otherwise not.

Mr. LYON called for a division of the question, so as to take it distinctly on striking out.

Mr. WRIGHT supported Mr. RHEA's motion at length, on the ground that, as it now stood, the bill contemplated a direct violation of the compact with France, by which we had engaged to prohibit importation after the expiration of three months from the date of the proclamation. The attempt of the Legislature to explain or declare the intent of a law he considered an usurpation of judicial powers.

The question on striking out the words proposed to be erased by Mr. RHEA's motion was decided by yeas and nays. For striking out 23; against it 92, as follows:

YEAS—William Anderson, David Bard, Joseph Calhoun, Martin Chittenden, John Clopton, William Crawford, William Ely, Barent Gardenier, William Hale, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Matthew Lyon, Alexander McKim, Nicholas R. Moore, Thomas Moore, John Rhea of Tennessee, John Roane, Erastus Root, John A. Scudder, Samuel Shaw, Laban Wheaton, and Robert Wright.

NAYS—Willis Alston, jr., William T. Barry, Burwell Bassett, William W. Bibb, Abijah Bigelow, Adam Boyd, James Breckenridge, William A. Burwell, William Butler, John Campbell, John C. Chamberlain, Epaphroditus Champion, Langdon Cheves, Matthew Clay, James Cochran, Richard Cutts, John Davenport, jr., John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Nathaniel A. Haven, William Helms, Jacob Hufty, Richard Jackson, jr., Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, Joseph Lewis, jr., Robert Le Roy Livingston, John Love, Aaron Lyle, Nathaniel Macon, Archibald McBryde, Samuel McKee, William McKinley, Pleasant M. Miller, William Milnor, John Montgomery, Jeremiah Morrow, Jonathan O. Moseley, Gideon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, Matthias Richards, Samuel Ringgold, John Ross, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Ezekiel Whitman, James Wilson, and Robert Witherspoon.

Mr. WRIGHT renewed the motion he had made in Committee of the Whole, to incorporate in the bill a provision for requiring, as a *sine qua non* to the revocation of the non-intercourse, an arrangement for the surrender of impressed American seamen.

He proposed to make some remarks on the subject; but a motion to adjourn prevailed—yeas 59 nays 50.

TUESDAY, February 26.

The following Message from the PRESIDENT OF THE UNITED STATES, received yesterday, was read, as follows:

*To the House of Representatives of the United States:*

I transmit to the House of Representatives reports from the Superintendent of the City, and the Surveyor of the Public Buildings, complying with their resolution of the fourteenth of January.

JAMES MADISON.

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A message from the Senate informed the House that the Senate have passed a bill, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved the sixteenth of February, 1810," and a bill, entitled "An act to authorize the payment of certain certificates, credits, and pensions, and for other purposes," to which bills they desire the concurrence of this House.

GENERAL WILKINSON.

Mr. BACON, from the committee appointed to inquire into the conduct of Brigadier General Jas. Wilkinson, reported an immense mass of documents collected on the subject, without any opinion expressed thereon by the committee.

A motion was made by Mr. BACON that the report and documents be transmitted to the President of the United States.

This motion was opposed, because that it was sending to the President a mass of paper of the contents of which they knew nothing; and that it would be shifting the burden from the shoulders of the House, who had voluntarily taken it up, on those of the President of the United States.

This reference was supported on the ground of a similar proceeding in relation to papers heretofore submitted to the House in respect to that subject, and of the abstract propriety of referring to the Executive, who alone had power to remove General Wilkinson, and who had been supposed to be precluded by the interposition of the House from acting on those documents which should go to establish the guilt or innocence of the accused.

Mr. EPPES moved to refer the papers to a Committee of the Whole. Having commenced this inquiry, for which he himself had voted, he was of opinion that the House should prosecute it to some result, and not shift the responsibility from themselves on others.

Mr. RANDOLPH seconded Mr. EPPES's motion; and, after debate,

Mr. EPPES's motion was negatived—yeas 43, nays 81, as follows:

YEAS—Willis Alston, jr., William T. Barry, Adam Boyd, William A. Burwell, Matthew Clay, John Clopton, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson,

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Peterson Goodwyn, Jacob Hufty, Richard M. Johnson, John Love, William McKinley, Pleasant M. Miller, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Benjamin Pickman, jr., John Randolph, John Rea of Pennsylvania, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Lemuel Sawyer, Adam Seybert, Samuel Shaw, John Smith, Samuel Smith, Henry Southard, George M. Troup, Charles Turner, jr., Archibald Van Horn, and Robert Whitehill.

**NAYS**—Joseph Allen, William Anderson, David Bard, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Robert Brown, William Butler, Joseph Calhoun, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, Jas. Cochran, John Davenport, jr., William Ely, James Emott, William Findley, Barent Gardener, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Walter Jones, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Aaron Lyle, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Alexander McKim, William Milnor, Samuel L. Mitchell, John Montgomery, Thomas Moore, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rhea of Tennessee, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Richard Stanford, John Stanley, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, James Wilson, Robert Witherspoon, and Robert Wright.

Mr. **BIBB** moved to amend the motion, so as to include the report of the committee of the last session on this subject.

This motion was opposed, because the testimony taken last session was *ex parte*, General Wilkinson not having been heard in his defence; and supported on the ground of the allusion made to that report in the report of the present session.

The amendment was agreed to—yeas 88, nays 32, as follows:

**YEAS**—Joseph Allen, William T. Barry, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, William Butler, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, Matthew Clay, James Cochran, John Davenport, jr., Joseph Desha, William Ely, James Emott, John W. Epes, Meshack Franklin, Barzillai Gannett, Barent Gardener, Gideon Gardner, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Thomas Moore, Jeremiah Morrow,

Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Ross, Ebenezer Sage, Thomas Sammons, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, Richard Stanford, John Stanley, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Uri Tracy, George M. Troup, Charles Turner, jr., Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, James Wilson, Robert Witherspoon, and Robert Wright.

**NAYS**—Willis Alston, jr., William Anderson, David Bard, Adam Boyd, Robert Brown, Joseph Calhoun, John Clopton, William Crawford, John Dawson, William Findley, James Holland, Jacob Hufty, Walter Jones, John Love, Aaron Lyle, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, Thomas Newbold, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John A. Scudder, Ebenezer Seaver, Adam Seybert, John Smilie, Henry Southard, and Robert Whitehill.

The question on the motion as amended, viz: to transmit the reports of the last and present session to the President of the United States, was taken, and decided in the affirmative—yeas 76, nays 42, as follows:

**YEAS**—Joseph Allen, William T. Barry, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William Butler, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Martin Chittenden, James Cochran, John Davenport, jr., Joseph Desha, William Ely, James Emott, Barent Gardener, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Thomas Moore, Jonathan O. Moseley, Thomas Newton, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Ross, Ebenezer Sage, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, John Stanley, Lewis B. Sturges, Jacob Swoope, Saml. Taggart, Benjamin Tallmadge, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, James Wilson, Robert Witherspoon, and Robert Wright.

**NAYS**—Willis Alston, jr., William Anderson, David Bard, Adam Boyd, Robert Brown, William A. Burwell, Joseph Calhoun, Matthew Clay, John Clopton, William Crawford, John Dawson, John W. Epes, William Findley, Meshack Franklin, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Walter Jones, John Love, Aaron Lyle, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, Henry Southard,



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A committee was then appointed to wait on the President of the United States with those papers.

#### MORTALITY AT NEW ORLEANS.

Mr. NEWTON, from the committee appointed to inquire into the causes of the late mortality of the Army near New Orleans, made a report.

[The report includes many documents, and refers to the opinion expressed in the report of last year, as unchanged by anything which has since appeared.]

Mr. NEWTON said, as the House had just now sent a large parcel of documents to the President on a subject not unconnected with this, he moved that this report take the same course.

Mr. CRAWFORD (a member of the committee of investigation) opposed this reference, and went on to assign reasons why another course ought to be pursued.

Some conversation arose as to the proper mode of proceeding in this case; but, finally, a motion of Mr. EPPES to postpone the subject till to-morrow was carried.

#### COMMERCIAL INTERCOURSE.

The House resumed the consideration of the bill supplementary to the act concerning commercial intercourse, &c.

Mr. WRIGHT withdrew the motion he made before the House adjourned yesterday, and in the place of it moved to amend the bill so as to read to this effect:

"Provided Great Britain shall, on or before the 2d day of February, 1811, have so revoked or modified her edicts, &c., or shall before the 4th July, 1811, have made such arrangements with the United States relative to the surrender of impressed American seamen, as shall have been satisfactory to the President of the United States, and before that day shall have so revoked, &c., then the President to issue his proclamation," &c.

Mr. W. supported this motion by observations at some length on the propriety of interdicting intercourse with Great Britain on general considerations—on account of her conduct to the United States. In support of that opinion, he quoted the resolutions of Congress in 1793; and he spoke on the necessity of observing with good faith the terms of the contract with France, which he conceived the provisions of the bill as going directly to contravene. Mr. W. dwelt emphatically on the hardships endured by our citizens in servitude on board of British men of war, and lamented the apathy which appeared to prevail in relation to their sufferings. Was property more dear than life or liberty, that it should excite so much higher an interest, and occupy so much more of the time of the House? He then quoted the retaliatory law of 1798 in relation to the impressment, &c., of American seamen by French vessels; and he recommended, in strong terms, the adoption of similar measures at this day in relation to England. He, also, took a wide scope of remark on our foreign relations

generally, and made some comments on Mr. QUINCY's speech of yesterday.

Mr. GARDENIER spoke at length against the bill, in principle and detail. He occupied the time of the House about three hours, during which time there was more than one interruption for the want of a quorum, and by motions to adjourn. He took the ground, in its widest latitude, of the want of faith towards us in France, and a different conduct on the part of Great Britain. He intimated that the bill was in fact, if not in intention, a compliance with the wishes of Bonaparte; but, although so far conformable to his policy, was yet not such a measure as would satisfy his insatiable ambition, on which he particularly dwelt, or retrieve from his grasp the vast amount of property under sequestration in the ports of France and her dependencies, &c. He deprecated the prostration of Great Britain, as removing the obstacles to universal conquest; and, even if this measure could be coercive, which he utterly denied, he was opposed to it.

Mr. HOLLAND replied to Mr. GARDENIER, and supported Mr. WRIGHT's amendment. He was of opinion that the bill, as it at present stood, would be a departure from our contract with France, and was not taking that high stand, in relation to Great Britain, which circumstances called for.

When Mr. HOLLAND concluded, another motion was made, by Mr. RANDOLPH, to adjourn, and negatived—yeas 31, nays 72.

Mr. KNICKERBACKER spoke at large on the subject of the bill. He appeared to be averse to the non-intercourse system throughout, and to deprecate all restriction on commerce. He appeared more particularly to dread its demoralizing influence, and its pernicious effects in disturbing the order and steady habits of society.

Mr. ROSS spoke also against the restrictive system generally, to which it was known he had in general been opposed; but when he heard the course which had been pursued by the gentlemen from New York and Massachusetts, (Messrs. GARDENIER and QUINCY,) designed to criminate the Administration, he felt bound to give his support to the bill, and to oppose the amendment which went to embarrass its progress. Mr. R. made a number of remarks in reply to Mr. GARDENIER's observations on the subject of French usurpation, &c., showing that it had no connexion with the subject under discussion.

Mr. RHEA followed in support of Mr. WRIGHT's proposed amendment, urging the necessity of taking a strong ground in relation to Great Britain, who had so unceasingly shown a disposition to do us injury. He expatiated on the necessity of performing with good faith our stipulations with France, and of seizing the moment which appeared favorable for obtaining the release of our citizens, &c. Not to adopt the amendment, now it was proposed, would be a surrender of our rights as to the seamen.

Mr. DAWSON entreated that gentlemen would permit the question to be taken, that the mercantile interest of the country might know what to

expect. It could not be expected that all the speeches that could be made would now affect a single vote in the House.

Mr. LYON spoke against the amendment, as merely another impediment to a settlement of differences with Great Britain. The blockade of May, 1806, he again alluded to as having been drawn into question to increase the difficulties in the way of a settlement with Great Britain.

Mr. EPPES opposed the amendment, because the law of last session barely required of both nations a revocation of its edicts as the condition of a renewal of commercial intercourse; and one of them having revoked its edicts and received the benefit of the law, and it not being known whether the other had or had not revoked its edicts before the 2d February, he was opposed to annexing, as a condition for the renewal of intercourse with the latter, a demand unsimilar to any made of the other, and irrelevant to the question at issue. As well might the affair of the Chesapeake, &c., be attached to it, or satisfaction required of France for burning our vessels on the high seas, or for sequestering our property in her ports, as a prerequisite to the performance of our compact with her, as this proposition be adopted. The object of this bill was to remove doubts existing in the minds of some as to the operation of the law of May last, and to relieve a part of our own citizens. It was not to impose new conditions to the contract already offered.

Mr. WRIGHT replied with considerable warmth. He was not for violating our faith by imposing new conditions; but Great Britain had utterly refused to accept the proffered engagement within the time specified; and the time was as much an ingredient in the proposition as the fact itself. Having refused to accede to our proposition, it would be a breach of our faith with France now, after the time had elapsed, if Great Britain was permitted to come in and resume intercourse with us on a bare revocation of her edicts.

Mr. GARDENIER again spoke. He urged to gentlemen on the same side of the House as the gentleman from Maryland, to reflect whether, as France had required us to cause Great Britain to respect our rights, the rejection of this proposition (for impressment unquestionably injured our rights) would not be deemed a failure on our part to perform the conditions required by Napoleon as prerequisite to the revocation of his decrees.

The question was taken on Mr. WRIGHT's amendment, and decided in the negative—yeas 21, nays 83, as follows:

YEAS—William Anderson, Joseph Calhoun, Martin Chittenden, John Clopton, William Crawford, Joseph Desha, Barent Gardenier, Jas. Holland, Jacob Hufty, Matthew Lyon, Alexander McKim, William McKinley, Nicholas R. Moore, Thos. Moore, Gurdon S. Mumford, John Rhea of Tennessee, Matthias Richards, John Roane, John A. Scudder, Robert Whitehill, and Robert Wright.

NAYS—Joseph Allen, Willis Alston, jun., David Bard, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Rob-

ert Brown, William A. Burwell, William Butler, John Campbell, William Chamberlin, Epaphroditus Champion, Langdon Cheves, Matthew Clay, James Cochran, Richard Cutts, John Davenport, jun., John Dawson, John W. Eppes, Wm. Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, Thos. R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Aaron Lyle, Archibald McBryde, Pleasant M. Miller, William Milnor, John Montgomery, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Peter B. Porter, Elisha R. Potter, John Rea of Pennsylvania, Samuel Ringgold, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Adam Seybert, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Stanley, James Stephenson, Lewis B. Sturges, Samuel Taggart, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Nicholas Van Dyke, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, James Wilson, and Robert Witherspoon.

Mr. STURGES then moved (at ten o'clock) an adjournment. He believed, if an adjournment took place this evening, the bill would not be delayed to-morrow, otherwise than by the proposition of amendments. Motion lost—61 to 44.

Mr. MUMFORD.—I regret that the question just taken, to redeem our fellow-citizens held in bondage on board the floating dungeons of a foreign Power did not prevail. It cannot be in serious contemplation to abandon the honest tars of our country. But, since the majority have decided otherwise, with all due deference I submit. I will now proceed, and ask the indulgence of the House, at this late hour of the night, while I take a brief review of some of the observations which fell from my colleague (Mr. GARDENIER) on our commercial relations; and, as I see him in his seat, I hope he will correct me in case I should misquote his observations. The only question, in my opinion, is not now who began first to make aggressions on our commerce; but to consider, as Americans, whether we ought to put as much confidence in the proposed arrangement with one of the belligerents, as we did in the arrangement made with the other. We have printed and sent out to the people, in the course of a few years, more than thirty thousand copies of arguments, and we have convinced them that we have the best of the argument, though we have not convinced them that we have defended their rights; and the belligerents still persevere in their system of "feeling power and forgetting right." We have now arrived at a momentous crisis in our foreign relations; and great would be my satisfaction to hear that Great Britain had revoked her Orders in Council. But, let us look back, and see what prospect there is of such an event. In 1806, we expected much from the Fox administration, and we were met with an Order of Council blockading one thousand miles of coast from the Elbe to

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Brest, and thus shutting you out of the most lucrative avenues of your commerce with one stroke of the pen, and no actual force of investment to make an effectual blockade. Some gentlemen indulge a hope from the Regency, and I confess I did myself—but I am now convinced that we have nothing very favorable to expect from them. It will be a change of men, in my opinion, but not a change of principle; they will not vary in their monopolizing system. Have gentlemen forgotten the Grenville administration—and he will likely be the Prince's Premier—is not the memorable Jay Treaty within the recollection of the members of this House, extending articles to be denominated contraband of war, to your flour and salted provisions and fish? and we were forced into Great Britain under the construction of that treaty with our cargoes of provisions, and compelled to take an arbitrary price of ten per cent. profit, fixed by the maximum of British merchants, at the nod of Pitt, while those who escaped the British fangs, and arrived safe in France, obtained more than one hundred per cent. profit for the very same kind of articles.

Mr. Labouchere, as I have seen in the papers, was sent over to Great Britain from King Louis of Holland, as a confidential agent, to make overtures, that, in case certain events taking place, to be agreed upon by the respective parties, Holland should be taken under the immediate protection of Great Britain. But, after many fruitless visits and notes, &c., between him and the Marquis Wellesley, (much in the same manner as he amuses Mr. Pinkney,) he returned to Holland without accomplishing any specific object; and, notwithstanding the magnitude of the trade of Holland was so great, yet it would not do to accede to Mr. Labouchere's proposals, as it would interfere with the system of the paper blockades. Sir, we have it from high authority, that a French Court of Prizes, and a British Court of Admiralty are as much alike, as one egg is like another. I have just received an extract from a London paper, dated December 14, 1810, and confirmed by letters from that city, as follows: "The case of the Fox, in our Courts of Admiralty, has been again postponed; but that of the Sloth, which was destined from New York to St. Sebastian's, was determined yesterday morning, after a short hearing. It was decided on the principle of the law of blockade, as declared in our Orders of Council, that this vessel was lawful prize to the captors, and she was condemned accordingly." I will now inform the House, on my own responsibility, that I saw this vessel loading in the port of New York with a cargo of cotton of different kinds, and some logwood, and that I saw the documents, and of my own knowledge, can state, that the vessel and cargo were truly and *bona fide* American property, and sailed from New York for St. Sebastian's after the receipt of the Duke of Cadore's letter of 5th August, taken and sent into England in the month of November last, and now condemned. Here, sir, is the practical interpretation of the British cabinet in relation to their Orders in Council; it is worth more than

all and any other means you can employ to obtain correct data on which we can form a correct opinion, it being a plain matter of fact. The old legerdemain is still going on. Sir William Scott belongs to the Privy Council, Marquis Wellesley also. Who can say, that there is not an understanding between them? I am sure I cannot. But, may we not presume that it has a squinting that way, especially when we peruse the correspondence to Mr. Pinkney, and observe that while the Marquis Wellesley is amusing him, Sir William Scott is condemning real *bona fide* American property.

My colleague told you that, of the articles of that part of the country you came from, and the articles of the growth of the State of New York, ninety-nine hundredths find a British market. I will insure my colleague that if he will persevere in those markets under the present state of things, it will terminate in the utter ruin of him who shall continue in that market, and shall do no other business but confine himself exclusively to a British market. He said that Great Britain arrests your vessels and saves them from the Emperor of France. Very true, sir; but she takes good care to appropriate the vessels and cargoes to her own use. Of what consequence is it to an American to be told that this one or that one robbed him the most? It makes no difference to him; he knows, however, that he has lost his property between them. My colleague seemed to argue as though this bill was a non-intercourse altogether with England. No such thing. He may export to that country when and where he pleases in her dominions, but cannot import from them; but I will assure him that he shall be met with such heavy impositions and restrictions, that he will very soon regret that he had undertaken to send the produce of his country to a British market at the present time. It is very true, we can send our flour to Lisbon and Cadiz to a good market, but will that gentleman, or any other, undertake to say that a market for the produce of his country shall depend upon the precarious issue of a doubtful battle? What would be the consequence if the battle should turn in favor of the French Emperor, on the markets of Lisbon and Cadiz? Could we then go there, if we do not comply with the contract of our own law of May 1st, 1810?

When I hear of French privateers taking your vessels near your own shores; a British schooner firing into one of your regular packet coasters from New York to Charleston, escaped only by superior sailing, and the same schooner, off Charleston light-house, forcibly enter one of your innocent trading vessels, and peremptorily demand a citizen of our country, who had a regular protection from the collector of Boston; and, on being asked, why the man was detained? the answer was, "We want men, and we will have them."—Is it possible that such outrageous conduct can be called an affair? I do hope we shall soon make use of more energetic and stronger arguments than we have heretofore done, in order to protect the liberty of the citizen in his person

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and in his property; and, when in order, I will bring forward a motion to that effect.

Mr. BLAISDELL next took the floor. He went into a lengthy examination of the present and past state of our foreign relations, arraigning the measures of the Administration for several years past, and deprecating the passage of the present bill, as merely a continuation of the system of the past five years. When he had been speaking half an hour, or thereabouts, it was discovered that a quorum of the House was not present, several members having at once withdrawn from the House.

A motion was then made by Mr. WRIGHT, (at quarter past eleven,) to adjourn, and decided in the negative—yeas 10, nays 65, as follows:

YEAS—Joseph Allen, Daniel Blaisdell, William Hale, Robert Le Roy Livingston, Benjamin Pickman, junior, Timothy Pitkin, junior, John Ross, Killian K. Van Rensselaer, Laban Wheaton, and Robert Wright.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Chelms, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Epes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Ebenezer Huntington, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Ezekiel Whitman, and Robert Witherspoon.

Mr. BLAISDELL proceeded in his speech.

It afterwards appeared that there was not a quorum. Several members having withdrawn, a motion to adjourn was made without effect eight only voting for it.

A quorum appeared, and Mr. BLAISDELL again proceeded in his historical review of the events of the last year, and analysis of the documents respecting our foreign relations, presented to Congress at the present session. The following are his remarks entire:

Mr. BLAISDELL.—Mr. Speaker: Nothing would induce me to address you at this late hour, while there is so great a commotion in, and so many tokens of impatience manifested by, the House, but a sense of duty, and a desire to lend my feeble aid, in arresting the progress of a measure which, in my opinion, involves a question of no less importance than whether we are prepared, after having been insulted, robbed, and deceived, by the French Emperor, to follow the fatal example of the petty servile States of Europe, and throw this people into the embraces of that monster, at whose perfidy and corruption Lucifer blushes and

Hell itself stands astonished. If I understand the amendment of the honorable gentleman from Virginia, its principle object is to renew the non-intercourse of 1809, so far as it respects Great Britain, which was previously attempted to be revived by the proclamation of the President of the second of November last. I should have supposed that, rather than have made so glaring a confession that that State paper had misstated fact, the gentleman would have been dissuaded from his darling object, the non-intercourse. But it seems that when it comes in competition with the views of Napoleon, the veracity of the President must be sacrificed. But, sir, convinced as I am, that our paper war, which has been applied to all purposes, even to calling out the army, raising the militia, pressing the horses, &c., and sending them on an expedition the distance of five hundred miles, with express orders not to fight, has damned the character of this Government, broken down the spirit of the nation, embarrassed our citizens, and emptied the late overflowing Treasury, so as to render the resort to borrowing necessary; I cannot but hope that the amendment on your table will be rejected to give place to an amendment offered some days ago by an honorable gentleman from New York, (Mr. EMOTT,) when this bill was under discussion in Committee of the Whole.

Sir, if I understand that amendment, it went to suspend the whole restrictive system, except the third section of the law of May last, which saves fines and forfeitures incurred under our various restrictions. This amendment, to be sure, changes the position recommended by the Executive, but not much more than the bill, with the addition of the amendment now under consideration. Although it becomes this House to pay due deference to Executive recommendations, yet, if there are good reasons for a departure from such recommendations, it equally becomes the members of this House, out of a regard to the correctness of their own proceedings, to make such a departure correspond with the reasons which produced it. The position recommended by the Executive made its first appearance in a short paragraph in the President's Message, recommending such a modification of the law of May last, as would remove all doubts as to its exposition and execution; for the details of such modification we are referred to the report of the Secretary of the Treasury. In this report we find a project recommended to enforce the non-importation against English merchandise of every kind and from every country. In the first place, by making the proclamation of the President, declaring that the French edicts had ceased to violate our neutral commerce on the first day of November last, the only evidence of that fact; and in the second place, by authorizing the officers of the Army and Navy to enter ships, dwelling-houses, stores, or any other place, to search for and seize merchandise suspected of being imported contrary to law, and making a donation of the boon so seized to the wretch who should be hardy enough, in defiance of all moral obligation, thus

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to rob his neighbor; and in the third place, by declaring all merchandise so seized in the Northern section of the Union, adjoining the British provinces, to be forfeited, unless by a palpable inversion of the rule of evidence in all other cases, and even in this case, adopted in all other sections of the Union, he is able to prove that the merchandise was legally imported and the duties paid—with many other provisions, all of which have been laid before this House, in the first bill on the subject reported by the Committee of Foreign Relations, the details of which are too well recollected to need pointing out, or to be suffered to meet a public investigation at this time.

But, sir, with all due deference to the high ministerial officer who recommended the project, and likewise to the honorable committee who reported the bill, I may be allowed to pay it the compliment of saying that, in my opinion, previous to the reign of that tyrant, who, by a military force, aided by projects of this kind, has destroyed the sanctuary of justice, and has spread pillage, debauchery, robbery, and death, throughout the greater part of Europe; such a bill as that would have been scouted from this Hall as the production of a madman. But on receiving the Message of the President, covering the letters of Mr. Russell, the American Chargé des Affaires at Paris, stating that American vessels, loaded with *bona fide* property of American citizens, had been seized and sequestered in the ports of France, under the Berlin and Milan decrees, as late as the 9th of December, doubts seemed to arise in this House, whether the decrees had ceased to operate on the first of November, as the President had declared. And the bill was sent back to the committee, for the purpose, as I understood, of bringing in a bill to suspend the operation of the law of May last, until we should hear from France, whether the Emperor had disavowed those seizures, and whether the decrees had actually ceased to operate on the first of November. And I did understand the honorable chairman of the committee, and several other gentlemen on the other side of the House, to say on that occasion, that if, after we had new arrivals from France, that did not prove to be the case, they should be as ready as any gentleman to repeal the whole code of restrictive laws until the Emperor should learn to respect our rights. What evidence have we had since to give us a more favorable prospect, as it respects the revocation of the decrees? Not a syllable. But, on the other hand, we have conclusive evidence that they were not so revoked that their operation ceased on that day.

If it be asked where this evidence appears, the answer is ready. In the first place, by the letter of the Grand Judge, the Duke of Massa, to the President of the Council of Prizes, as also by the letter of the Minister of Finance to the Director General of the Customs, both dated the 25th of December, fifteen days after the manly remonstrance of Mr. Russell, in the case of the Orleans Packet; in which remonstrance he states the outrageous conduct of the custom-house officers, and requests a prompt and speedy disavowal of

the seizures, and that the property be again placed in the hands of the owners. But, sir, is there anything in these two letters which looks like a disavowal of the seizure in express violation of the promise of the Duke of Cadore? No, sir, although these letters were written fifteen days after the remonstrance of Mr. Russell. Instead of this they both agree that the decrees did not cease to operate on the first of November, but that the property taken with the Orleans Packet, and all the property which should be seized between the first of November and the second of February, must remain in depot to wait the pleasure of the Emperor, on our causing our rights to be respected by England.

But how, Mr. Speaker, are we to cause our rights to be respected? Is it by merely reviving the law of May last, as is the object of this amendment? Certainly this is not their meaning; for both these letters have reference to that law, as well as the proclamation of the President giving it effect, and to the circular of the Secretary of the Treasury, addressed to the collectors of the several ports, enjoining a strict execution of that law. No, sir, this is not what is to be done, which will satisfy the Emperor. He who flatters himself that this will be sufficient, shuts his eyes against official evidence to the contrary; as well in the above recited letters, written with a perfect knowledge of the performance on our part, and the promise of a performance on the part of France on the first day of November, as in the letter of the French Minister in the United States on the 12th of December, in which we are told that the French restrictions on our commerce are not to cease, but only on the result of firm and energetic measures to be adopted and persevered in by the two Governments against the common enemy.

But shall I be told that the letters of the Grand Judge and Minister of Finance promised that the property taken from our citizens since 1st of November should be restored, if we cause the law to be carried into effect after the 2d day of February, and therefore we were to believe it and ought to wait until we hear whether that has been the case. For the honor of my Government, I hope not. Is it really come to this, that we are brought to acknowledge that the Duke of Cadore was correct when he told General Armstrong that His Majesty could place no reliance on the American Government? No, sir, if this be true, for heaven's sake let us not express it. But what is this amendment which re-enacts the law of May last, and such pitiful reasoning as I have heard on this occasion, but placing our seal to that infamous insinuation? The President, on the mere promise of the Minister of the Emperor, that the Berlin and Milan decrees should cease to operate on the first day of November, placed full faith and reliance on that promise, and issued his proclamation on the 2d, presuming the promise had been fulfilled—and, shall we say that the Emperor is justifiable in disbelieving the law of May last, solemnly enacted by the three branches of the Government and the President's proclamation, toge-

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ther with the Circular of the Secretary of the Treasury, enjoining the law to be carried into effect?

I hope, not, for if we are become so pitifully servile as this, well might Cadore, in his letter of February 14th, 1810, tell General Armstrong that the Americans were without just political views, without honor, and even independence. And if we, by adopting this amendment, condescend to justify the Emperor, in his insult upon the plighted faith of our Government, in my opinion we shall furnish the American people and the world with just ground to say Amen to the declaration of Cadore in that respect. Will any gentleman still say, that the decrees ceased to operate on the first of November, since we have had official information from the French Government itself, that our vessels are to be seized under these decrees until the second of February? I trust not. Those gentlemen who support this amendment, ought to recollect that the sections, which go to re enact the law of May last, contain a confession, that that law is not now in operation; for if the decrees did actually cease to operate on the first of November, no one doubts but the law is now in full force, without the provisions of this bill. When the honorable chairman of the committee first offered his amendment, a misunderstanding seemed to take place between him and two gentlemen on the opposite side of the House, viz. the gentleman from Maryland (Mr. WRIGHT,) and the gentleman from Tennessee, (Mr. RHEA,) which undoubtedly happened in this way. While the honorable chairman well knew that the decrees did not cease on the first of November; therefore to keep alive the spirit of the law of May, which gave England three months after they did cease, it became necessary to lengthen the time for her to revoke; and the other two gentlemen, as it would seem, really supposed, that, because Mr. Pinkney had said that Cadore's letter was precision itself, these decrees really did cease to operate agreeable to that promise; although we have the official information from Mr. Russell on our tables, that the Orleans Packet was the first case that had happened after the first of November, to which the Berlin and Milan decrees could have been applied, and that they were applied in that case, and that several late arrivals, which left France from twenty to twenty-five days afterwards, bring no information from him that a change had taken place, and had that been the case, he would certainly have communicated information to the Government before the rising of Congress. On the contrary, these arrivals confirm what he had stated, and say, that every vessel arriving in France shares the same fate. Mr. Speaker, until I heard those two gentlemen, I did suppose that no man of common sense could have believed a position, in such direct opposition to evidence. And from the opinion which I have of the discernment of the gentleman from Tennessee, I think I must have misunderstood him, while perhaps it may be improper to include the other gentleman in the supposition.

Sir, I seldom trouble the House with any ob-

servations of mine, nor is it my intention, at this time, to examine and expose all the winding and management which has been practised, to bring about such a state of things as to render plausible this measure at this time. I shall, however, examine the non-intercourse system from the date of the law of March, 1809, and inquire what was its professed object? What use has been made of it? And how it has been regarded by the belligerents? And also notice some of its effects upon our own citizens as well as upon the Treasury. What must be the inevitable consequence if this measure is suffered to go into effect? I take it to amount to an entire non-importation of any of the articles, products, or manufactures of more than three-fourths of the civilized world, to which our merchants would, at this time, run the risk of attempting voyages; for, from the Continent of Europe no one returns unless at the expense of this Government. The dominions of Great Britain, including the East and West Indies, as well as her European dominions, and those on the American Continent, are immense. The products of these various countries formed a principal part of those importations of the last year, which, while the non-intercourse slept, gave new life and vigor to every branch of business. Our seaports, which the year before presented the gloomy appearance of cities besieged by a hostile foe, again resumed the appearance of enterprise, industry, and wealth. Thousands, who in 1809 were either a burden to their friends, in the poor-house, or begging their bread in the streets, were in 1810 enjoying the fruits of their industry in a comfortable supply of the necessaries of life, while the farmer and planter sowed his seed and cultivated his field, with the comfortable prospect that his crop would not decay on his hand for want of a market. Now, sir, although exportation is not interdicted by this bill, yet I apprehend the result will be much the same. I can hardly be expected that Great Britain, who gentlemen on the other side of the House are fond of considering as the cause of all our commercial distress, will condescend to pay us specie for our produce, while our ports are closed, not only against her shipping of all kinds, but against every article of her products and manufactures, as well as those of her colonies and dependencies, while they are open to those of her enemy. Again, what was the effect of the non-intercourse in 1809 upon our Treasury? In addition to the bankruptcy and wretchedness spread over the face of the whole country, we are informed by the annual report of the Secretary of the Treasury, laid on our tables, that the net revenue arising from duties on merchandise and tonnage, accruing during that year, amounted to only \$6,527,000, while we are informed in the same report, that this source of revenue in the three first quarters of the year 1810, while commerce was free, amounted to a sum exceeding \$7,250,000, and the Secretary adds, that he believed the whole revenue arising from duties on merchandise and tonnage for that year would amount to more than \$12,000,000; making an increase in this year, when commerce was un-

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shackled, of \$5,473,000, notwithstanding all the robberies of Napoleon, which probably amounted to more than forty millions, a free importation of the avails of which would have greatly increased the revenue of that year. From this view of the subject, we find a deficit in the revenue of 1809, caused by this measure, of \$5,473,000, and, in anticipation of the effects of the law now about to be enacted, the Secretary of the Treasury has, in the same report, recommended an immediate additional duty to be laid upon importations, which, together with the high duties already established by law, he thinks will not amount to more than \$8,000,000, making an anticipated deficiency in the next year's revenue, occasioned by this measure, of \$4,000,000 compared with that of 1810. But if we compare the revenue arising from duties on merchandise and tonnage during the year 1809, while commerce was restricted by the non-intercourse, with what it was in 1807, while it was unshackled, we shall find a deficiency of about \$11,000,000.

From this view of the subject, which is taken from authentic documents, which I invite gentlemen to controvert if they have it in their power, it is demonstrated that if we suffered this system to go into operation, we are not only to again reduce our citizens to a state of bankruptcy in their private fortunes, while loaded with additional taxes, but, notwithstanding the aid of these additional taxes, our Treasury is, if possible, to be reduced to a more complete state of bankruptcy than at present. I put it to gentlemen, who are in the confidence of the Cabinet, to say, why we are called upon again to plunge this nation into such a state of poverty and wretchedness? Is it necessary as a measure of self-defence, as the only mode of resistance which will bring England to terms? For myself I should suppose that our late experiment in this species of warfare, at which France took so much offence, as to take occasion to seize and confiscate the property of American citizens, to the amount of \$40,000,000, which rendered necessary an appropriation of \$80,000 during the present session, in order to enable those of our citizens, who had been thus robbed and plundered, to revisit their native shores, afforded a spectacle too humiliating to suffer us to make another attempt so soon, and before we have so far recovered from the effects of our late experiment as to be able to defray the ordinary expenses of government without having recourse to annual loans for the purpose. Are we bound to adopt this measure on account of the faith of Government being pledged to France by the law of May last?

Mr. Speaker, in answering this inquiry, I must be indulged to begin with the non-intercourse of March, 1809—notice its effects upon the belligerents and on our own citizens, as well as the law of May last—and the management of that law, so as to render plausible the measure now under consideration. It may not be amiss, while we trace this subject, to have our eye upon the position marked out by that great and good man, President WASHINGTON, and published to the world

in his proclamation of neutrality. But, to begin with the non-intercourse of March, 1809, which same measure was proposed by Mr. Madison, previous to the Jay Treaty, and which could at that time have been put to silence only by the influence of a WASHINGTON, who, instead of trying to provoke England to a war, determined to send a Minister to demand justice. And, Mr. Speaker, painful as it is to recollect from whence we are fallen, the voice of the American Government at that time commanded respect, and the object was obtained in the restoration of the property of our citizens, agreeably to an adjustment and estimate of a Board of Commissioners—a majority of whom were Americans—and a Treaty of Amity, Commerce, and Navigation, was entered into with that nation by Mr. Jay, which, although condemned by that class who now manage the helm of State, yet history furnishes no example of any nation increasing so rapidly in wealth and commercial strength as this nation did, until the commercial part of that treaty expired—that part being temporary.

But, to return to the law of March, 1809, you will recollect, sir, that the minority, whose pride it is to follow the example of a WASHINGTON, opposed that law as unnecessary and impolitic, and the Journals show that they voted against it; but the President (Mr. Jefferson) hailed it as the favorite of his Secretary, (Mr. Madison,) and cordially gave it his signature. And one of its mighty effects has been to transfer forty millions of the property of our citizens into the coffers of Napoleon, to aid him in his project for obtaining the liberty of the seas. This law was immediately published and sent to our Ministers at London and Paris, as it held out both threats and flattery to England and France, as an inducement to them to repeal their unjust edicts, although it was well understood at the time as operating entirely and only against the former, as France could have no intercourse with us while at war with England.

Here give me leave to inquire what has been the further effect of this law. It seems England, although she saw that if it had any operation at all, it operated only against her, was willing to consider it as a municipal regulation of our own, and treated it as such, while Bonaparte at first, and for ten months, passed it over as inoffensive to him, until our vessels, which had been shut up in our ports by its elder sister, the embargo, having got released from that strong measure, flocked into the ports of France, Spain, Holland, and Naples, all under the immediate and entire control of France, when, on the 23d March, an order was issued by his gracious and loving Majesty to seize and confiscate the property of our citizens in all those countries; which property is, by the best calculation, estimated at more than forty millions. And you will perceive, Mr. Speaker, that the Duke of Cadore saw, that, by suffering the law to pass unnoticed, till our property released from the embargo had filled nearly every port in Europe, under French control, and then issuing an order which was to have a retrospective operation of ten months, was such a gross out-

rage upon every principle of honor and justice, as well as the usages of public law, that he, in a letter to General Armstrong, of the 5th August, 1810, attempts to excuse the piratical transaction, by saying that the Emperor knew nothing of the law of March, until very lately. But, I pray gentlemen to take notice that General Armstrong, in his letter to Cadore of the 10th of March, (five months before the one just recited from Cadore,) asserts that this law was communicated to him in the month of June or July preceding—one whole year before the declaration made by Cadore.

But, to pursue this subject, on the 1st day of May, 1810, while this robbery, I ought to presume, was unknown to the Executive—certainly to the people—this non-intercourse law was repealed; but the majority, for wise purposes, I presume, did, in the same law that repealed the non-intercourse, give the President power, in case England or France should, before the 1st day of March, so revoke or modify her edicts as that they should cease to violate the neutral commerce of the United States, to declare the same by proclamation; in which case, the non-intercourse should be revived against the nation neglecting to revoke or modify her edicts, in like manner, for the space of three months after the date of such proclamation. And you will recollect, sir, that this law was also opposed by the minority, not so much, perhaps, because they suspected either the integrity or impartiality of the President, as because they thought it unconstitutional to commit a power to the Executive which was, in its nature and effect, an act of legislation, viz: to revive a law at his discretion which was to affect the great interest of the nation, and might result in war. I say, at his discretion; and I ask gentlemen to take notice that the law reads, “so revoke or modify.” This law was also sent by the President to our Ministers at London and Paris, as he states in his Message. But, what was it sent there for? Only to be used as an inducement to those nations to revoke their unjust edicts, which was the avowed object of the provision when it passed. And, if sent there for that purpose, it would seem, that, to have acted a neutral part, it ought to have been used alike at the palaces of St. Cloud and St. James. But, Mr. Speaker, what was the fact? Here we may learn the management of which I spoke when I first addressed you. This law, which you will perceive was in the nature of a generous overture made to the belligerent who first revoked his edicts, changed its character when offered to the other belligerent, who should neglect to revoke the obnoxious edicts until after his enemy had done so; and, instead of being a generous offer, contained a threat, that if she did not revoke, we should shut our ports against her products, while they should be open to those of her enemy. And this is the light in which it was viewed by our Government, as will be seen in Mr. Smith’s letter to General Armstrong, of the 5th day of June, 1810, (printed documents, p. 35,) in these words: “It might be added, that the form in which the law now presents the overture, is as well calculated as the overture itself to gain a favorable

attention, inasmuch as it may be regarded by the belligerent first accepting of it as a promise to itself and a threat only to its adversary.” For this view of the subject, gentlemen will perceive that it is much more agreeable to close any matter in dispute upon a generous offer for so doing, than it would be to do so while threatened by their opponent that if it is not done they must suffer the consequence of their own folly and his vengeance. Now, in looking through the documents, I mistake if gentlemen have not discovered some management in this business, so that while the law was presented to France as an offer made to herself, it should be presented to England in no other character than that of a threat. It seems that the first correspondence with our Minister which we are suffered to see, is a letter from Mr. Smith to Mr. Pinkney, of the 22d May; although it appears from that letter that the Secretary of State had sent a copy of the law in a previous letter of the 4th of that month to Mr. Pinkney, as also another copy in the letter of the 22d; but we hear nothing of instructions in either to use this new overture, which the law presents, to the best advantage at the Court of St. James, while it retained its character of an offer made to that Government. Indeed, it would seem most natural to suppose that the instructions given in this business were contained in the letter of the 4th, which was the first enclosing a copy of the law. But, at this we are not suffered to look; nor at the one sent to General Armstrong, of the same date, which was also the first to him enclosing a copy of the law.

But, Mr. Speaker, as we are not suffered to see the first correspondence on this important business, which we are called upon by the Executive to carry into effect by a new act of legislation, it becomes doubly our duty to examine well this letter of the twenty-second, and see what that treats of, and whether it compares with the first we are suffered to see, sent to General Armstrong on this subject. In this letter to Mr. Pinkney of the twenty-second, the Secretary commences, as he says, with much surprise, that Great Britain had not revoked her blockades, and that she had not sent a man of rank to replace Mr. Jackson; and, after having dwelt at great length on the latter of these subjects, he mentions that he had sent a copy of the law, as also another, in his letter of the fourth of that month, and tells Mr. Pinkney to let the British Government know that the provisions of the law would be carried into effect, but not a syllable of proffering it as an offer made to that Government and a threat to France. But, instead of this, the Secretary selects two subjects, which he must have known would be difficult to close, and tells Mr. Pinkney that if another Minister was not sent to replace Mr. Jackson, to let the British Government know that he would return to the United States. And as though this was not sufficient to prevent the British Government from closing with the condition of the new overture, the attack on the Chesapeake must be settled in a manner agreeable to the propositions made to Mr. Rose and Mr. Ers-



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kine, which he might well know would not be done, as the British Government had told him it could not be closed in that way. On the first of July, Mr. Pinkney acknowledges Mr. Smith's letter of the twenty-second of May, and very properly goes on to execute the instructions it contained as to the British Government sending a man of rank to replace Mr. Jackson, &c. And, in my opinion, very properly notices the scrap of instructions it contained, respecting the law of May last, by merely mentioning, that while he is engaged with Lord Wellesley on these other subjects, he thinks he shall draw his attention to the non-intercourse law, but I find no account of his ever presenting the law to that Government.

Now, Mr. Speaker, while we see in this letter of the twenty-second the substance of all we are permitted to see of the use to be made by Mr. Pinkney of this law, as an inducement to the British Government to revoke the Orders in Council, let us examine what was the course pursued towards the French Government to induce it to take advantage of the law, while it retained the character of a favorable overture, so that the British Government should have to meet it as a threat, or as a rod held over them to procure the revocation of their edicts. In order to do this, I shall examine the first letter which is suffered to come to public view, from Secretary Smith to General Armstrong, after the date of the law of May first. This bears the date of June fifth, documents, page 34. In this, we find that he had sent two before, each one enclosing a copy of the law, and no doubt both containing instructions what use to make of it. For we find, even in this third letter, that Mr. Smith tells General Armstrong, (to use his own words,) "If there be sincerity in the language held at different times by the French Government, and especially in the late overture to proceed to amicable and just arrangements in the case of our refusal to submit to the British Orders in Council, (not blockades,) no pretext can be found for longer declining to put an end to the decrees of which the United States have so justly complained." And here, I entreat gentlemen to notice that this is the first ground stated by our Government to that of France, as being that which would be insisted upon from England—a compliance on her part required to entitle her to the provisions of this law, viz., her relinquishing the Orders in Council. We may here notice, that Mr. Smith adds, as a further inducement to France to take advantage of the law, while it retained the character of a favorable overture, "that by putting in force the non-intercourse against England, agreeable to the terms of this statute, that the very species of resistance would be made which France has been constantly representing as the most efficacious." But, Mr. Smith goes still farther in his instructions, and tells General Armstrong, "that it may be added, that in the form in which the law now presents the overture, it is as well calculated as the overture itself to gain a favorable attention, inasmuch as it may be regarded by the belligerent first accepting it as a promise to

itself, and a threat only to its adversary." In this letter, we find that the Secretary states a first ground, which was necessary in the first instance to entitle the French Government to the provisions of this law. What was this ground? Why, he tells General Armstrong to let the French Government understand that the President would not proceed to give the law effect, if the restoration of the property of our citizens be finally refused; and closes his letter by directing him to let that Government know that the only ground, short of a preliminary restoration of the property, on which the contemplated arrangement could take place, would be an understanding that the confiscation was reversible, and that it would become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens. Was this the ground on which the subject was placed? It seems so, from this official letter of the Secretary. Yes, sir, it was; and with due deference, I may be allowed to say, the only honorable and just ground; and if the American Government had possessed independence enough to have still occupied this ground, we would not have had the mortification to discuss the bill on the table at this time. But, instead of this, although Mr. Smith had just received Cadore's insulting letter, in which he more than insinuates that, as a Government and nation, we are destitute of just political views, without honor, energy, or even independence, and closes by letting our Government know of the seizure and sale of the property of our citizens in all the ports of Europe under French control; what was the conduct of the American Government on this occasion? I entreat gentlemen to take notice, that, with this horrid picture of insult and robbery fresh in their recollection, the same conciliatory disposition, guided by the principles of neutrality, which dismissed a British Minister for an implied insult, induced Mr. Smith to inform General Armstrong that the President thought it best not to make any animadversions on that subject at that time. (Printed documents, page 34.) The next letter on this subject worthy of notice, is one of the 5th of July, in which Mr. Smith acknowledges the receipt of information, that the property which he had said in his last must be restored, in order to entitle France to the American commerce while it was denied to England, was sold, and the proceeds deposited in the *caisse priée*—privy purse of the Emperor. Here, indeed, Mr. Smith seems to have almost forgot himself, and to conceive he was giving instructions how to proceed with a British Minister, and tells General Armstrong to demand every reparation of which the subject was susceptible. But, Mr. Speaker, is it not worthy of notice that he closes even this spirited letter, with such a history of piracy and insult then on his desk before him, by quitting the ground he had taken in his letter of the fifth of June, and, instead of a proposed renewal of the non-intercourse against England, if she should neglect to withdraw her Orders in Council, which was the only ground taken by the President with Mr. Erskine, and also the only

thing contemplated when the law of May last was passed, as also the only ground taken by himself only one month before, (having, it is presumed, heard from France in the interval,) he condescends to tell the General, that if France should demand it, he might give her to understand that it was the President's intention to renew the non-intercourse against England, if she did not also rescind her blockades. It is here again to be noticed, that he again repeats, what he had before told General Armstrong, that a restoration of the property was indispensable, in order to a renewal of the non-intercourse against England.

But again: will, I had like to have said, the servile manner, in which a rescinding the blockade is coupled as a condition with the withdrawing the Orders in Council, escape notice? Immediately on instructing General Armstrong to state to the French Government that a repeal of the blockade of eighteen hundred and six would be insisted on, the Secretary adds: "You will 'press the reasonableness of permitting the United States to proceed in such way as they may 'think proper, in relation to any subsequent 'blockades, or any other blockades not against 'France,' which to me reads in this way, *i. e.*, as we have, at the request of the French Government, receded from our first ground, and included blockades also, you are instructed humbly to request Bonaparte to permit us to do our own business in our own way in future. *My God!* After all this, to see the Government of my country soliciting, at the feet of the Emperor of France for permission to manage their own affairs in their own way! What American can read this correspondence without laying his hand upon his heart and exclaiming, O my Government, my Government, now is the gold become dim, and the most fine gold changed! The next thing we meet with, is Mr. Smith's letter of the 2d of November, to General Armstrong, enclosing the President's proclamation, declaring the edicts of France so revoked, as that they ceased to violate the neutral commerce of the United States, and of course the non-intercourse to be revived against England after the 2d of February, if she did not in the meantime revoke her orders, which, after the ground taken, and so often repeated, with respect to the restoration of the property, must astonish every American. But we have still this as a consolation, that Mr. Smith, notwithstanding he had been told by the Duke of Cadore that it was impossible any compromise could take place on that subject, says in the letter enclosing the proclamation that the President presumes that the requisitions contained in his letter of the 5th of July, as to the restoration of the property, will have been satisfied. In the name of God, Mr. Speaker, what grounds had he for this presumption? In addition to this, in his letter of the 5th of November, Mr. Smith instructs General Armstrong to let the Emperor know that the third section of the law of March, 1809, at which he took so much offence, was not intended to operate against his subjects, but

against our own citizens. And although this may be, and probably is, true, yet a confession of this kind, after so recent and aggravated insult and violence, must I think be sickening to the American people, and Napoleon himself will be at a loss to know why it was made unless to testify our loyalty. But our loyalty to the contrary notwithstanding, the Duke of Cadore in his letter to General Armstrong of the 12th of September, in answer to one from him of the 7th of that month, tells the General, that the Emperor sees with pleasure that the Americans are far from acknowledging the tyrannical principles of English legislation, yet informs him that as to the merchandise confiscated, it having been confiscated as a measure of reprisal, the principles of reprisal must be the law in that affair.

Now, Mr. Speaker, after seeing how the law of May, 1810, has been used with the French Government, and for aught we know, not used at all with that of England, until it had assumed the character of a threat, together with the various changes of position taken by our Government in this business, I think it demonstrates a management, which, if duly examined, will not leave much doubt whether it be indispensably necessary to suffer this law to go into operation, either as a measure of resistance against England, or of good faith towards France. For instance, at one time, England must repeal her Orders in Council to entitle her to the benefit of the law; at another, viz: after hearing from France the condition must include a repeal of the blockades also, and on the part of France, she must rescind her decrees and restore the property, then a promise is to be accepted as it respects the property, and, to top the climax, the proclamation issues on the presumption of an agreement having taken place, on the part of France, that the property shall be restored. But after all this we are told by Cadore, on the 12th of September, to be contented, for as to the property in question it will not be restored.

But, Mr. Speaker, it seems that the President, in compliance with a resolution of the House of the 21st of December, has furnished documents which put the question beyond a doubt, that the proclamation was issued, declaring that the French decrees were repealed, so that they ceased to violate the neutral commerce of the United States, when, to say the least, he had no official information of the fact, or, if he had, he has taken care to keep it to himself. Mr. Smith, in his letter to Turreau, of the 18th of December, is compelled to say in effect, that the French restrictions on our commerce are not rescinded, or to use his own words: "If, then, for the revoked 'decrees, municipal laws producing the same commercial effect have been substituted, the mode 'only, and not the measure, has undergone an 'alteration." In this situation, I should like to be informed so to modify our laws as to carry the non-importation against England and her dependencies forcibly into effect, and thus destroy the small remains of our commerce, the effects

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of which we have so recently felt at the Treasury, since the repeal of the non-intercourse law in May last, as I have already shown from the Secretary's report. This information I have not as yet been able to obtain, although I have sought for it, unless I resort to the last paragraph in General Turreau's letter of December 12, to Mr. Secretary Smith, in answer to one from the Secretary, remonstrating against the exclusion of cotton and tobacco from the ports of France. In reply to which he says, among other things, that he thinks some modification will take place in this respect, but tells him that this will depend upon the firm and persevering measures to be pursued by the two Governments against the common enemy. In this intimation of his Imperial Majesty through his Minister, which, by-the-by, is not the first of the kind, will I fancy be found the only necessity of suffering this measure to go into operation. And are gentlemen prepared to obey? I trust not. No, sir, I will not for a moment entertain so degrading an idea. But, firmly believing the contrary, I still hope the amendment will be rejected, and with it the whole restrictive system, until France shall learn to respect our rights.

Mr. Speaker, I had here intended to have closed my remarks, had I not heard the declarations of several gentlemen on the other side of the House against the judicious observations of the gentleman from New York, (Mr. EMOTT,) in support of the amendment which he did himself the honor to submit. But, since the uncandid aspersions so liberally bestowed on that occasion, I can expect nothing but to be denounced as an opposer of my Government, if not as an enemy to my country. But, sir, to both these charges I shall plead not guilty, and I must still be indulged while I repeat part of the remarks I have made on the documents, and sum up the evidence to prove the fallacy of these charges. And here give me leave to ask, what were the conditions of the law of May last as between this Government and that of France? I take it to be, that if France should so revoke or modify her edicts, as that they should cease to violate our neutral commerce, and if Great Britain should not also revoke in a given time, then the non-intercourse was to go into effect against her agreeably to the law of May last. What did the Administration conceive that the French Government must do in order so to revoke or modify her edicts that they might cease to violate our neutral commerce? Sir, the opinion of the Executive on this interesting question can only be ascertained by examining the correspondence which passed between the Secretary of State and General Armstrong on this subject. And to that correspondence, and the conduct of the French Government, I shall resort for that opinion. And to this end I shall proceed to examine the first letter from Mr. Secretary Smith to General Armstrong, which is suffered to come to public view, after the law of May first, and which enclosed a copy of that law; which is his of June fifth, page 34 of the documents, in which he tells

the General to let the French Government know, that if the property forcibly seized and taken from our citizens had been sold, and a restoration finally refused, that the President would not proceed to carry the non-intercourse into effect with Great Britain; and the Secretary also instructs Gen. Armstrong to let the French Government understand, that the only ground, short of a preliminary restoration of the property, would be a declaration that the confiscations were reversible, and that it should become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens.

The next letter from the Secretary to General Armstrong on the subject, is one bearing date July 5th, in which the Secretary says to the General: "You have been already informed that, with the repeal of the French edicts must be combined the restoration of the property of our citizens, as an indispensable evidence of the justice of the French Government towards the United States, and upon this ground, and this alone, would the President proceed to give the law effect against Great Britain." The third letter of the Secretary to the General, which is worthy of notice, is that of July 17, in which he tells him that "he has dispatched Lieutenant Miller, in order to obtain early information of the disposition of the French Government in relation to the condition of the law of May, so that the President may have it in his power to lay the same before Congress at an early period of the session." The next letter which passed from the Secretary to General Armstrong, was one of the 2d of November, enclosing the President's proclamation, declaring the French edicts to be so revoked as that they would cease to operate on the 1st day of November, and, even in this letter, the General is instructed to make the French Government understand that, with the revocation of the Berlin and Milan decrees, must be combined the revocation of all the edicts of France violating our neutral rights, as, also, that the President had issued the proclamation on the presumption that the requisition contained in his letter of July 5th, respecting the restoration of the property of our citizens, had been complied with. Thus, sir, it appears that our Executive has insisted that, to have the French edicts so revoked as to cease to violate our neutral commerce, the property seized and held under the sanction of those decrees must be restored. Instead of being an opposer of the Government in this honorable attitude, I heartily approve of the position which was then taken. But, Mr. Speaker, what does the Executive say as to the French restrictions on our commerce being rescinded? The Secretary, in his letter of December 13, to the French Minister, while remonstrating against the exclusion of cotton and tobacco from the ports of France, among many other things of nearly the same import, says: "If, then, for the revoked decrees, municipal laws producing the same commercial effect have been substituted, the mode only, and not the measure, has undergone an alteration." Again, Mr. Speaker, what has been

the conduct of the French Government in relation to a compliance with the law, as it had been explained by the Executive during the whole of this period? It will be recollected that Cadore, in his first letter on this subject, in answer to a remonstrance from General Armstrong against the unjust seizure and sequestration of the property of American citizens, in which remonstrance the General signifies the surprise of our Government at the outrageous act, and requests information as to the prospect of its being restored, tells the General that it is impossible any compromise should take place on the subject.

Mr. Speaker, to be sure, on the 5th of August, he tells General Armstrong that the Berlin and Milan decrees were revoked, and, on certain conditions, would cease to operate on the first of November. But, even in this part of the business, we have only the promise of the Minister, and not the act of the Emperor; and, it will be recollected that, at the date of the Berlin decree, when we were similarly circumstanced, we were told that it was the opinion of the man, and not the act of the Government. But, on this point, we have Mr. Russell's official letter of the 11th of December, testifying that the Berlin and Milan decrees did not cease to operate on the first of November, but, that the first case that had happened after that time, to which they could be applied, was that of the Orleans Packet, and that, on the 9th of December, they were applied in that case. We have, also, the two letters already mentioned of the Grand Judge and Minister of Finance, both confirming the position that they had not ceased to operate the fifty-five days after the 1st of November; and the news by several late arrivals says that every vessel which comes within their reach shares the same fate with the Orleans Packet. But, sir, as to the other parts of the requisition of our Government, viz: the restoration of the sequestered property, Cadore, in his letter of September 12, in answer to one from General Armstrong, of the 7th of that month, wherein the General requires a definitive answer, whether the Emperor would consider the restoration of the property as a subject of present or future negotiation; or, whether the act of His Majesty already taken in the seizure and sale of the property of our citizens is to be considered as conclusive against remuneration? To which plain questions Cadore condescends to be equally plain in his answers, and to tell the General that, as to the merchandise confiscated, it having been confiscated as a measure of reprisal, the principle of reprisal must be the law in that affair. And, last of all, the French Minister in the United States, in his letter of the 12th of December, in answer to one from the Secretary of State, remonstrating against the exclusion of cotton and tobacco from the ports of France, among other things, tells the Secretary, that he thinks some change will take place, but requests the Secretary not to mistake him; for, that this will not be a measure of chance, to take place on the part of the Emperor alone, but must be the result of firm and energetic measures, to be adopted and perse-

vered in by the two Governments against the common enemy. Now, sir, for this short and correct statement, which, I trust, neither declamation nor sophistry will put down, as long as official documents are admitted in evidence, I would ask, who can say that we are bound by the law of the first of May last to renew the non-intercourse; (I will not say against England, but against ourselves,) and thus reduce, or even annihilate our revenue, and load our citizens with additional taxes, as, I trust, I have already shown, if this amendment is adopted?

Mr. Speaker, if I am to be called an enemy to my country for opposing this measure, under present circumstances, to my country I will appeal; being entirely willing that the honorable gentleman from Maryland (Mr. WRIGHT) and his friends should share the whole of the honor of advocating the right of the Emperor to take and withhold the property of our citizens. Sir, it creates no astonishment to hear that gentleman contend that we are bound by the law of May to carry the non-intercourse into effect against Great Britain, but, to hear a gentleman possessed of the discernment of the honorable chairman of the committee who reported this bill, make this declaration, is truly astonishing, when the reverse is the fact. I trust I have already shown that in every communication from our Executive to the French Government on the subject, that Government has been told that if, in connexion with the revocation of the decrees, the sequestered property was not given up, the non-intercourse would not be renewed against England. These several letters were communicated to this House, and published nearly three months since, and are, at this moment, in the hands of the British Government, and, by this tenure, that Government has a right to rest assured that the non-intercourse will not be renewed against them. Indeed, to believe the contrary, would be an insult to the plighted faith of the Executive.

Sir, I am sensible of the impatience of the House, and I can assure them that, aside from a sense of duty, nothing could have induced me to have undertaken the task I have attempted to perform. I shall, therefore, close my remarks, after having entered my solemn protest against the folly and madness of the project, and shall have done my duty when I have voted against the amendment.

Mr. BIGELOW then took the floor, and, immediately after he commenced, a quorum not being present, a motion to adjourn was lost, 55 to 14. A quorum appearing, Mr. B. proceeded. At a quarter before one o'clock, a quorum not appearing, a motion was made by Mr. KNICKERBACKER to adjourn—lost, ayes 8.

Mr. JOHNSON moved that the officers be sent out to notify the members to attend, and to compel their attendance. In doing so, he declared he was only influenced by motives resulting from a sense of duty, in consideration of the great quantity of public business before the House at the present session.

Mr. KNICKERBACKER opposed the motion on

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account of the lateness of the hour, and renewed the motion for adjournment, which was again negatived.

Mr. JOHNSON withdrew his motion, under the idea that a quorum was present.

Mr. GARDENIER renewed the motion to direct the attendance of members.

Mr. BURWELL, Mr. TAGGART, and Mr. BIGELOW, spoke against the motion, and Mr. RHEA, Mr. GARDENIER, and Mr. PORTER, in favor of it.

The arguments on the one hand were, the impropriety at this time of the night, at this season of the year, and on such an important subject, of bringing the members from their beds; and on the other, the urgency of the business, and the evident intention to delay or defeat this bill, with which many gentlemen had withdrawn from the House.

A motion was then made to adjourn, (at half-past one,) and decided as follows:

**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, Barent Gardener, Nathaniel A. Haven, Herman Knickerbacker, Robert Le Roy Livingston, Benjamin Pickman, jun., Lewis B. Sturges, Benjamin Tallmadge, Killian K. Van Rensselaer, Laban Wheaton.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, Aaron Lyle, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, Peter B. Porter, Elisha R. Potter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Thompson, Uri Tracy, Charles Turner, jun., Robert Weakley, Robert Whitehill, Ezekiel Whitman, and Robert Witherspoon.

A quorum being present, Mr. BIGELOW concluded his remarks. The following is his speech entire:

Mr. BIGELOW.—Mr. Speaker, I regret extremely that, at this late period of the session, and at this late hour of the night, the high sense of the duty which I feel that I owe to my constituents and to my country, should compel me to submit to the consideration of the House a few remarks upon this all-important subject. They will be of a general nature, candid, and as much as possible confined to the subject of debate.

Sir, on this occasion, I feel no disposition to censure the conduct of the President. Permit me, however, before I proceed to the subject, to notice a very singular remark of the honorable gentleman from Pennsylvania, (Mr. ROSS.) That gentleman observed, "that when this bill was laid on your table, he was determined to vote against it; that he considered it wrong in prin-

ciple, and injurious in its consequences; and that he should now vote against it, had not several gentlemen, particularly the gentleman from Massachusetts, (Mr. QUINCY,) been so severe in their censures upon the conduct of the Administration. He felt it his duty to support the Administration, and should, therefore, vote for the bill, although he disliked it."

Sir, I apprehend the President will not feel under very great obligations to that gentleman for this kind of support. For myself, I am free to declare, that stronger reasons than those must operate upon my mind, before I can give my sanction to a measure professedly impolitic and unjust.

This bill, Mr. Speaker, is advocated on the ground that, by the law of May 1810, we are under obligations to France to prohibit commercial intercourse with Great Britain. If, sir, I rightly recollect, for I have not the law before me, the substance of the provision, as it respected France, was, that if she so revoked or modified her edicts and decrees, as that they should cease to violate our neutral commerce, and Great Britain refused, for three months, to pursue a similar course; then was this system of non-intercourse to commence, as it respects Great Britain.

Mr. Speaker, I deny that the faith of the nation is pledged by the law of May, 1810. It is neither a contract nor a treaty. To constitute a contract, two parties are necessary, at least. All writers upon the subject have so considered it; and sir, if one party can make a contract with another, without the knowledge, consent, or approbation, of the other, it is a new discovery, with which, as yet, I am unacquainted. Such, sir, is the nature of the contract referred to. The Congress was the only party concerned in making it. France knew nothing of it, it was made wholly without her consent or approbation. How, then, is the national faith plighted to France by that law? Sir, I know of but one way in which the faith of this nation can be pledged to another, and that is, by a treaty approved and ratified by the constituted authorities; and surely, sir, no gentleman will contend that this law amounted to a treaty. If, then, it was neither a contract nor a treaty, the faith of the nation is not pledged. The most you can make of it is, as was observed on a former occasion, by the honorable gentleman from Virginia, (Mr. RANDOLPH,) "that it is a rule of conduct for ourselves." But, sir, I am willing to admit, in case France had fairly and honestly complied with the conditions of the law, so often referred to, that good faith on our part might have required that we should pass the present bill. What was the condition to be performed on the part of France? Sir, she was to revoke and modify her decrees, so that they should cease to violate our neutral commerce. This has not been done. The Berlin and Milan decrees are not even nominally revoked. Look at the letters of Mr. Russell, our Chargé des Affaires at Paris, of the tenth of December last. Look at the letters of the Dukes of Massa and Gaeta, of the twenty-fifth of the same month. Look

at her conduct subsequent to the first of November, the time when you were informed that those decrees would cease to operate. Has she not seized every vessel which has arrived at her ports since that period? Upon this point I will not waste the time of the House by attempting to show that those decrees are still in force, a fact, which has been already so fully and amply proved by the candid and able arguments of the honorable gentleman from New York, (Mr. EMOTT.)

But, sir, I will go further, and, for the sake of argument, admit, not only that the law of May, 1810, has all the binding force upon this nation of a treaty made by the regular, Constitutional authorities, but that the Berlin and Milan decrees were, on the fifth day of August last, actually revoked; and, after the first day of November, ceased to violate our neutral commerce. There is still another important point to be considered, and I hope gentlemen will attend to it with candor.

Sir, it is a principle well established by the law of nations, as well as by the laws of nature and reason, that when one nation, in consequence of revoking certain acts injurious to another nation, claims from the other nation the performance of a promise made on condition that those acts should be revoked, it is necessary that the nation thus claiming the fulfilment of the promise, should first, not only revoke those injurious acts, but it should also be done fairly and honestly, without subterfuge or reserve, and without, at the same time, adopting other measures equally injurious, and producing the same effects. Now, sir, admit that the declaration of the Duke de Cadore, in his letter of the 5th of August, 1810, that the Berlin and Milan decrees were revoked, and, after the first of November, would cease to violate our neutral commerce, was an actual revocation of those decrees; still, sir, if this was merely to amuse and deceive us, if another act equally injurious was at the same time substituted, will it be contended that France has, nevertheless, fairly complied with the conditions of your law? Sir, it is a very singular fact that, on this very fifth day of August, another decree was issued by the French Emperor, which was equally injurious, and amounted, in fact, to a prohibition of our commerce, as much as the Berlin and Milan decrees. I allude to the duties established by the Emperor on articles of American produce, which were so enormously high that the owner would prefer an abandonment of his cargo to a payment of the duties. Even this was insufficient; for, by a subsequent decree, various articles were prohibited, and those which were allowed must only be exported in vessels which should sail from Charleston or New York.

Is this, sir, that fair, that honest repeal of the Berlin and Milan decrees; is this that *bona fide* performance of the condition; that, ceasing to violate our neutral commerce, which lays us under such solemn obligations to France? Am I not, then, Mr. Speaker, authorized to say, that the condition of the law of May, 1810, has not

been complied with? I trust, sir, as to this point, that the letter of the Secretary of State to Mr. Turreau, of the 18th of December last, will be considered as conclusive. In this letter, the Secretary, speaking of the enormous duties which have been mentioned, observes: "If, then, for the 'revoked decrees, municipal laws, producing the 'same commercial effect, have been substituted; 'the mode only, and not the measure, have undergone an alteration."

To my mind, sir, this insidious, this perfidious conduct, on the part of Napoleon, is infinitely more base, and merits the indignation of the American people infinitely more than would an open refusal to revoke the obnoxious decrees. It is an attempt, if I may be allowed the expression, to gull and deceive us, by an artful, intriguing policy, which ought to excite our jealousy, and rouse our highest resentments. I trust, sir, I have fairly shown that our faith is not plighted, that we are under no obligations to Napoleon. If in this I am correct, then the passage of the present bill is a mere question of policy and interest.

It would be a mere waste of time to attempt, by a reference to the past evils which have resulted from this restrictive system, to show the impolicy of its continuance. The bad effects already produced are but too well known. This, sir, is the favorable moment to erase it from your statute books; the policy and interest of the nation require it.

Let us examine, for a moment, the consequences of its continuance.

Do you believe, sir, that your merchants, a great portion of whose property has been seized by foreign nations, when the remnant of their vessels, which have escaped, shall, upon entering your own ports, be seized by your own custom-house officers, that they will be satisfied to lose the remainder of their property, in pursuance of your own laws? They will think it hard enough, that millions of their property have been seized by France, by Denmark, and by Sweden, without having the remainder seized on their return, and confiscated by their own Government. Surely, sir, they will require strong evidence of the fact, that your faith is plighted to France, before they will be satisfied with the measure you are about to adopt.

Mr. Speaker, I am not the Representative of merchants, I feel no peculiar interest in their favor; but I consider them a useful class of citizens; their interests are closely connected with the interests of your farmers; and, in this point of view, they are at least entitled to notice. Hitherto, your merchants have been noted for their fairness, and for the respect they have paid to your revenue laws. But, sir, after having their property plundered by France, by Denmark, and Sweden, will they not, when they learn that from a scrupulous regard to your faith plighted to France, a faith however which has no existence, you seize, with a few exceptions, all which return; will they not, I repeat it, endeavor to land their cargoes so as to escape the vigilance of your officers? Have you no apprehension that, when

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they have once learnt the art of smuggling to save their property from seizure and confiscation, they will afterwards practise it, to avoid the payment of duties? I fear that this system will have a tendency to corrupt the morals of your merchants, and from them it will extend throughout the country.

Sir, I will detain the House but a moment longer. Had this bill gone far enough; had the majority permitted amendments which would have secured the property of your merchants to a sufficient extent, much as I deprecate this restrictive system, and desirous as I am of embracing this favorable moment for its repeal, I might have been tempted to vote for the bill; as it is, I cannot but oppose it.

Mr. SAMMONS moved an adjournment.

Mr. BUTLER moved to send for the absent members. Although so many had deserted their duty, he hoped there were still enough left to compel the attendance of the remainder.

The motion to adjourn was lost, yeas 10.

The motion was then made to send for absent members.

Considerable conversation took place on the subject.

Mr. SMILIE expressed his hope that an adjournment would not take place on any account. He saw a determination in the minority to prevent the passage of the bill; and as the rules now stood, they had a power to do it by talking. In this state of things, and in the situation in which the minority now overruled the majority, it was imperiously required of those who remained at their post to compel the attendance of absentees.

The question was taken on Mr. BUTLER's motion, and carried, yeas 41.

At twenty minutes past two, the Doorkeeper was accordingly despatched for the absentees.

A motion was then made to adjourn, yeas 6, nays 62.

At ten minutes past three another member, viz: Mr. SAWYER, appeared.

A quorum not being present—

A motion was made to adjourn.—Lost, 40 to 18.

At half past three o'clock a call of the House was ordered. It appeared that there were seventy-one members, including the Speaker, wanting one of a quorum.

Mr. SOUTHARD stated the improbability of getting a quorum to attend to business, and his own inability to remain longer, and, therefore, moved an adjournment.

Mr. P. B. PORTER seconded the motion. He said he now saw the impossibility of getting a quorum; that whenever an additional member came in, a member was detached from a certain corps in the House, so as to leave the House continually wanting one of a quorum.

The motion was negatived, yeas 29, nays 31.

Several motions were made at different times for compulsory process; but it was the opinion of the Speaker that no such process could be issued unless a quorum was present.

Mr. SAMMONS again moved to adjourn, yeas 25, nays 28.

After further consideration, a motion to adjourn prevailed, 31 to 23.

The House adjourned after a most desultory and fatiguing session of eighteen hours, the last four of which a quorum was not present, nor could other members be induced to attend.

WEDNESDAY, February 27.

The House formed a quorum at half-past ten o'clock.

A motion was made by Mr. T. MOORE, and seconded, that the House do adjourn; and, the question being thereon taken, it was determined in the negative—yeas 5, nays 73.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for establishing trading-houses with the Indian tribes;" and the bill, entitled "An act to erect a light-house on Boon Island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts," with amendments to each; to which they desire the concurrence of this House.

On motion of Mr. JOHNSON, the bills were ordered to lie on the table.

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The House resumed the unfinished business.

The question was taken, without debate, on the first section of the amendment proposed by Mr. EPPES, viz: "that which goes to authorize the President, whenever Great Britain shall have so revoked or modified, &c., to declare the fact, upon which the non-intercourse shall cease," &c.—and decided as follows:

YEAS—Willis Alston, jun., Ezekiel Bacon, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, John Clopton, James Cochran, Richard Cutts, Joseph Desha, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Peterson Goodwyn, Edwin Gray, James Holland, Jacob Hufty, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, George Smith, Samuel Smith, Richard Stanford, John Stanley, John Thompson, Uri Tracy, George M. Troup, Charles Turner, junior, Nicholas Van Dyke, Robert Weakley, Robert Whitehill, and Robert Witherspoon—65.

NAYS—Abijah Bigelow, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, William Crawford, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, Wil-

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liam Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Robert Le Roy Livingston, Archibald McBryde, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Elisha R. Potter, John Randolph, John Rhea of Tennessee, John A. Scudder, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, James Wilson, and Robert Wright—36.

The question then recurred on the second section proposed as an amendment, by Mr. EPPES, viz: declaring that, until the proclamation of the President declaring the revocation, the non-intercourse shall be in force in relation to Great Britain.

On this question the debate re-commenced.

Mr. GOLD.—Mr. Speaker, at a period when the civilized world is convulsed by continued war, to its centre; when the European continent is exhibiting the marks of ruthless conquest, and is threatened with all that barbarism, with which Atilla, with his invading hordes, overwhelmed the Roman world, it becomes the Councils of this nation to move with cautious steps on the theatre of our foreign relations; to move, sir, with a fixed eye on the great law of neutrality, and yield an implicit obedience to its high injunctions.

It eminently becomes, sir, the Government of this country, in all our concerns with the belligerents of Europe, to carry an even hand, to manifest to both a fair, impartial, and equal conduct. Without such a course, the consequences to our peace and prosperity, from the jealousy and violence of warring nations, are inevitable, and, with it, we can hardly promise ourselves exemption from aggressions and spoliation; such and so destructive is the spirit of the times. Need I, sir, to excite caution in legislation, refer the House to the consequences of the non-intercourse act, of the 1st of March, 1809; for, however, free from all exception from the belligerents was that act, yet France, in the wantonness of power, made it the pretext for the exercise of the rigorous right of reprisal by an additional decree, which, with the preceding, have, like the besom of destruction, swept our property from the ocean.

It was on that act, that the Rambouillet decree, of the 23d of March last, was founded for its sole justification; and so do the very terms of the decree, shameful and disgraceful as it is, import.

In reviewing the proceedings of our Government under the act of the 1st of May last, (the act upon which the President's proclamation for a non-importation with Great Britain is founded,) permit me, sir, to ask if the spirit of a fair and impartial neutrality, so eminently necessary in the critical situation of the United States, has guided our proceedings with the respective belligerents? By this act, if either of the belligerents rescinded its edicts, violating our neutral rights, the non-intercourse act was to be put in force against the other refusing to rescind, and the President, by proclamation, was to declare such fact of rescinding. Under this provision, sir, the President substituted a prospective en-

gagement for a fact done; a promise for a performance; the future for the past, and hence, sir, have resulted our present difficulties; that crisis which bears so hard upon the American people. It is not, sir, my object to impeach the motives of the President in this ill-fated proceeding; I am to presume a love of country guided him; but it is impossible not to see in the measure a course indulgent to France, a construction upon the letter of the Duke de Cadore, of the 5th of August last, (touching the revocation of the decrees of Berlin and Milan,) the most favorable and advantageous to that country, and offensive to Great Britain. For, sir, notwithstanding the above proclamation, the noonday sun is not plainer than that those decrees are not revoked; nor indeed, sir, will they, in my opinion, ever be revoked under the above act. The utmost extent of our hopes, from the last despatches transmitting the official communication of the twenty-fifth of December last, from the Grand Judge Massa, and the Minister of Finance, Gaete, is, that our vessels (with their cargoes) seized in the ports of France since the first of November, in violation of the stipulation of the above letter of the 5th of August, and of all that is holden sacred among nations, may be at some future day, under some new and embarrassing conditions, flowing from the policy of Napoleon, restored to our suffering citizens. By the last paragraph of the above letter of the Minister of the Finances, it would seem that the Emperor and King has shut his eyes upon past engagements, and referred all that concerns us to the second day of February, when new toils are to be spread, as is to be presumed, for the unsuspecting, credulous, and confiding American merchant and navigator. Against the mass of evidence, that the French decrees are not revoked—evidence which is increased by the melancholy advices of every east wind—the honorable member (Mr. RHEA) from Tennessee, refers us to the President's proclamation, as a foundation for our faith in the repeal of the decrees to rest on; this is evidence indeed of things not seen. As well might the trembling mariner look to his almanac for the state of the weather at the moment the pitiless tempest is beating upon him, and his vessel is sinking under the shock of the elements. Whatever ground of hope or belief in the good faith of France existed at the time of issuing the proclamation, subsequent events have removed those grounds from under our feet, and blasted all our hopes; the wily policy of the French Court stands confessed; the Emperor loves but to chasten; he seduces but to destroy.

While the indulgent course, the favorable interpretation of the letter of Cadore of the 5th of August above mentioned, was adopted by the Cabinet towards France; was a similar temper and disposition manifested in relation to Great Britain?

I fear, sir, this part of the case will not well bear scrutiny. That the Orders in Council, and not the doctrine of blockade, were the objects of the act of the 1st of May, in relation to Great Britain, not only the debates of the period, but the recol-



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lection of every member of this House will bear me out in asserting. That mere cruising blockades, and every other blockade not supported by an actual investing force, is unwarranted by the laws of nations, is my clear conviction; it is the result of examination and reflection on the subject; but unfounded in public law as is the doctrine set up by Great Britain, its abandonment or modification can only be expected from treaty, and not by an isolated declaration at the threshold, under the threat of a specific alternative. The Orders in Council being removed, the blockade of May 1806, would have been little more than nominal; why then was it insisted on as indispensable, under the above act? Through a strange fatality, something, inconsiderable in itself, is always found in our demands upon Great Britain, to bar a settlement.

But, Mr. Speaker, what is calculated much more to put in jeopardy the neutral character of our Government is the bill on the table. While all is uncertainty and embarrassment with France; while her decrees remain merely suspended and not revoked; while your merchants, trusting to the plighted faith of the Emperor, have been drawn into the French ports and there betrayed and sacrificed; while commerce is bleeding at every pore under the merciless gripe of Napoleon, we are called on to go farther to conciliate France, than she was entitled to, had she faithfully revoked her decrees. Upon revoking his decrees, the Emperor was entitled to have the act of the 1st of May carried into effect against Great Britain, and he was entitled to no more. Such, sir, is the precise condition imposed on the United States, by the letter of the Duke de Cadore, of the 5th of August, and this is the whole extent of the requirement. Upon what ground, then, sir, is it that we are called on to pass this additional non-importation act against Great Britain? If France has revoked her decrees, is not a non-importation with Great Britain inevitable, and does it not exist? But I will put the key to the door; let us not dissemble; France has not revoked, and for that cause and that alone, has the question arisen, whether there be at this time a legal non-importation with Great Britain. If, sir, there be any other difficulty, in the way of a non-importation with Great Britain; if there does exist any other possible obstacle, let the advocates of the bill name that obstacle. I make the appeal to gentlemen, I demand of the chairman of the committee who reported this bill, why and wherefore it is presented? France has failed to revoke her decrees, and as such revocation was, under the act of the first of May, a pre-requisite to non-importation with Great Britain, such non-importation must fall, unless this additional act in favor of France is passed. This, sir, is the whole length and breadth of the case; and on no other ground can this disastrous measure be placed. If France revoked her decrees, she was entitled to a non-importation against Great Britain, and if she failed to revoke, what? The bill gives the answer—she is equally entitled; so that, do what France may do, the end must be a non-importa-

tion with England. Such, sir, is the logic of your bill; such the impartiality towards the belligerents; such and so barefaced the subversion of the great principle of the act of May last.

The principle of the act of May was just and equal; our offers to Great Britain and France were the same, and the result, in case of refusal, alike to both. France met the offer by the famous letter of Cadore, of the 5th of August; in which, with more than conjurer's skill, this disciple of the Jesuits brought together and united both present and future; he revoked and did not revoke; he gave up the decrees and yet retained their operation or effects; he made the revocation both absolute and conditional; absolute for obtaining the President's proclamation, conditional for the purpose of eluding performance; absolute for drawing our property within his clutches, conditional for retaining it, to fill his coffers and fatten his minions; in fine, sir, the letter was one thing, or another thing, or nothing at all, as artifice might suggest or future events render necessary.

But, sir, the most copious source of error that I have witnessed during the various debates upon the proceedings under the act of the 1st of May, is found in the extent of the Berlin and Milan decrees. The gentlemen, who have commenced their career of conciliation with France, treated those decrees as operating only on the narrow ground of direct commerce between the United States and Great Britain and on our vessels to other ports which have submitted to British search; hence the effort to justify the late seizures of our vessels in France, upon grounds consistent with the repeal of those decrees, as being laden with British colonial produce, &c. But, sir, this cannot avail or give the least color to the pretence of a repeal.

The Berlin decree (that decree which emanated from the French Emperor at the capital of prostrate Prussia, where he sat like Marius over the ruins of Carthage) contains ten distinct articles; the 6th and 7th prohibit all trade in British merchandise, and, the more effectually to close all the avenues to the Continent, exclude from the continental ports all vessels coming from Great Britain or her colonies, or that shall have visited the colonies after the date of the decree. The Duke de Cadore, by the above letter of the 5th of August, pledged the Emperor, his master, for the entire repeal of this decree without any reservation. Had this pledge been faithfully redeemed; had such repeal been had with good faith, it would have subverted the whole continental system and removed all difficulty both between the United States and France, and between us and Great Britain, as it must have produced the actual result required by Great Britain, in restoring the commerce of the world to that state it was in at the promulgation of the decrees. Although the above decrees partake of municipal as well as external regulation, yet the French Emperor, foreseeing that Great Britain would not relinquish the ground taken while the continental system, so hostile to her commercial interests, was continued, and yielding for a moment, as is sup-

posed, to the groans of subjugated States, stipulated by the above letter for a relinquishment of his system by an entire repeal of those decrees. Let me repeat, sir, had France proved faithful to her engagements, the United States would at this moment have had a prosperous commerce with Europe, and the present state of things is fairly imputable to the Emperor, with whom that bill on your table invites us to proclaim "all is well," I look about me, sir, with emotions of concern and anxiety to find a ground on which to justify the course adopted by this bill towards the belligerents. The peace, the reputation, and honor of my country is concerned. While the great principles of justice and fair neutrality shall be our landmarks and guide, come what may, fall when we may, we shall stand justified to the world; and what is of more consequence, we shall have the support of our own consciences; the sweet and consoling reflection, that we stand clear of fault and deserve a better fate. This bill will not give the United States this high and enviable condition.

If our Army and Navy is not so great as those of our enemy, our reasons ought to be at least as good, and our cause as just. This high ground of justice and neutrality is about being given up by this measure, and France is to be selected for our friend, and England marked as an enemy, while the former has never ceased to this day to violate our neutral rights to the extent of her power; to outrage all that is respected among civilized nations.

It was not sufficient for the Emperor to withhold the revocation of his decrees, but insult is added to injury; the United States must acknowledge themselves the aggressor in all things and submit to his correction. This Government, whose only fault was in too long suffering, justly required, by the above act of the first of May, the repeal of those unlawful edicts to precede any step on the part of this country; but the Emperor has reversed all, requiring our non-importation with Great Britain to be actually carried into effect previously to a revocation of his decrees, or even a restoration of our property seized since the first of November. Such, sir, is the insulting course prescribed by the above communication of the Grand Judge, Massa. The Emperor requires the submission, and, by this act, (which enacts an immediate non-intercourse with Great Britain, without regard to the fact whether France has or has not repealed her decrees) you comply.

With what embarrassment and confusion will the American Minister at the Court of St. James' present this act, which violates the sacred pledge given to that Court, in a communication to Marquis Wellesley made by Mr. Pinkney on the 10th of December last (page 29 of last message and documents from the President.)

In that letter our Minister presents the United States as impartial and just in requiring from France an actual revocation of her decrees, before she could be entitled to a non-importation against Great Britain. His representations and assurances of this unshaken disposition of our

Government are strong; his language is emphatic; "to put the law of non-importation before the revocation of the edicts, was impossible." Why will you, sir, give that Court such a triumph, and your Minister such mortification, as must ensue upon a communication of this act?

It only remains, sir, for me to regret the necessity, which this bill has imposed on me, to introduce so often Great Britain and France, and to speak of their relative conduct towards this country. It would have given me much pleasure to avoid a course of observation which cannot fail to be misrepresented, and expose to imputations of foreign predilections. But, sir, the act of the 1st of May, and the bill on your table, rendered the discussion of the relative conduct of the belligerents indispensable. In opposing this bill, (which gives to France friendly intercourse, and to Great Britain hostile non-importation) I have been constrained to canvass the reason for such a preference; and to demand why you depart from the course of equal and impartial resistance to both the belligerents, as long as they continue without a change of measures to violate our rights.

Mr. GHOLSON next spoke on the opposite side of the question. He repelled the assertions and argument of those who had endeavored to persuade the House to consent to a breach of the plighted faith of the nation, under an alleged non-performance of her share of the engagement on the part of France. He examined the subject analytically, and quoted the letters of the Dukes of Massa and Gaeta as evidence of a revocation, of such a nature as would not have been questioned, had they proceeded from another quarter. If the law of May last was to be carried into effect, this section ought to be passed to remove all doubt or uncertainty as to its operation, &c. Mr. GHOLSON spoke two hours.

Mr. PEARSON.—It is but seldom, Mr. Speaker, I address you, especially on subjects of the nature and importance of that which is now under discussion. Perhaps on this account, I may not be the less entitled to your indulgence and the attention of this assembly.

I am not so vain, as to indulge the hope of being able to cast much additional light on the momentous subject before us; and, from the indications, which are but too plainly perceived, of the determination of a majority of this House, to pass this bill with all its imperfections on its head, I despair of obtaining within these walls a single convert to my opinion; but, sir, the high imperious voice of duty summons me to an exertion, and for my country, my constituents, and myself, I am bound to obey. I embrace the present moment with more cheerfulness than I should have done any preceding period of the debate, because I feel no artificial warmth, no excitement, except that which flows immediately from the subject. My feelings, naturally ardent, have, it is true, been much quickened at various stages of this discussion, and sir, I am much indebted to the gentleman from Virginia (Mr. GHOLSON) who last addressed you, for having aided me much in resuming that temper of mind which alone ought to be

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manifested in our deliberations. The calm, dispassionate, and unassuming address of that gentleman (Mr. G.) deserves my approbation, and I give it freely; but as for the truth of his premises, the soundness of his logic, and correctness of his conclusions, they are left to the sanction of those whose perceptions are very different from mine. In the course of my remarks, some of the most prominent observations of that gentleman will not escape my notice.

Mr. Speaker, no nation can be great, prosperous, and happy, or, if it is, can continue that greatness, prosperity, and happiness long, unless it is governed and directed by the sound principles of justice, honor, and impartiality; and more especially, should those principles be regarded in a Republic, whose very base is virtue, and whose support is the aid and approbation of honest and honorable men. The instant this foundation and this support is torn away, the superstructure crumbles into ruins; the elegant fabric of liberty is seen no more; anarchy with all its deformities, or despotism with all its horrors, raise their hideous crest, pull down the temple of liberty and give chains to its votaries. It is to be hoped, Mr. Speaker, that this state of things will not be the result of the present measure; but, when connected with the proceedings of this Government for several years past, and particularly with something which has been lately done, but which I am not at liberty to name, my mind is filled with dreadful forebodings of our fate, and no slight apprehensions for the character of the nation, and the best interests of the people.

Being opposed to the principles of this bill, and having no confidence in the reasons or pretences by which it is attempted to be justified, I shall not trouble you with an exposition of its particular details, however novel, arbitrary, and impolitic they may appear. The bill proposes substantially a revival of that system of commercial restrictions, under which the people of our country have so long and severely suffered. It substantially denies all intercourse with Great Britain and her colonies, by excluding from our ports British vessels of every description, and the products and manufactures of that nation of every kind, and to whomsoever they belong; while at the same time, every possible indulgence is granted to France—her vessels, armed and unarmed, her products and those of the nations which she has subjugated, find no restraint from us. Here let me remark, that to those two contending Powers, whenever their interest, or the interests of either of them come in contact with the interests of my own country, I feel no preference, I make no discrimination; my first best wishes ever are at home. I now solemnly appeal to gentlemen, why shall we, at this moment, make this marked distinction? Why shall we take this hostile attitude against Great Britain, and open our arms to the embrace of France? When, by doing so, we must inevitably afflict our own people, and depart from that character of neutrality, which has been the alleged boast of the present and late Administration; and which alone has afforded those in power an apol-

ogy with the people for those wild schemes of policy, with which their course has been but too plainly marked, and that accumulated distress which every man has seen, and every honest man has felt? Can it be because Bonaparte has said, he loves the Americans? I, sir, know no other cause. I know it has been said on this floor, and said too by the honorable gentleman who reported this bill, and his honorable colleague, (Mr. Gholson) that the Berlin and Milan decrees are revoked; and, in compliance with the law of the late session of Congress, the faith of this nation is pledged to Bonaparte, for the due execution of that law against Great Britain. To those opinions my understanding cannot assent—the obligation to Bonaparte I neither feel nor believe. That none such exist will not, in my opinion, be difficult to prove. For a fair understanding of this question, it becomes necessary to apply to the law of May, 1810. On that law and the proceedings which have been subsequently adopted by this Government and France, must the propriety of the present measures be justified or condemned. The act alluded to, in substance, declares: "That in case either Great Britain or France shall, before the 3d day of March next, so revoke or modify her edicts, that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not, within three months thereafter, so revoke or modify her edicts in like manner, the restrictive provisions of the law of 1809 are to be revived and have full force and effect against the nation so refusing or neglecting to revoke or modify," &c. and the restrictions imposed by the act, are from the date of such proclamation, to cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid.

The emphatic words of this law are, so revoke or modify, as that they cease to violate, &c. Here is a positive, unconditional, indispensable prerequisite, to be complied with before the President was authorized to exercise the power given to him; a specific fact was to exist, and he was empowered simply to make its existence known to the nation; no discretion was allowed; nothing left to doubtful construction—no conditional promissory note of a perfidious agent, of a more perfidious master, was contemplated by the law. The great question now is, does the fact on which the proclamation was alone to issue, and on which its legitimacy solely depends, exist, or does it not? The very doubt ought to decide the question—the burden of proof unquestionably ought to rest on those who call on us to pass this law; and in their own language, execute the contract, and violate not the faith so solemnly plighted to "Napoleon the Great"—unfortunately the evidence on which they rely disproves the fact, and we are enabled to do what can seldom be done, and ought never to be required—prove a negative.

The letter of the Duke de Cadore, of the 5th August, 1810, the proclamation of the 2d of November, and Mr. Pinkney's diplomatic special pleading in his letter to the Secretary of State, of

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the 10th of December, constitute the whole burden of proof upon which the advocates of this bill rest their defence, and the evidence of the fact, on which alone it can be justified. I have stated the law, and what I conceive to be its obligations on the President and ourselves. It will now be proper to take a correct view of this famous letter of the Duc de Cadore of the 5th August, this honied charm, which has seduced us into a labyrinth, from whose gloomy cells and devious windings we are, I fear, not soon to be extricated. This letter, which contains but one sentence of plain truth, viz: "That the Emperor applauded the general embargo laid by the United States"—after asserting the most palpable falsehood, by denying that the Emperor had knowledge of our law of March, 1809, until very lately, and justifying the seizure and condemnation of all American property which had entered, not only the ports of France, but those of Spain, Naples and Holland, dating from the 20th of May, 1809; and declaring that reprisal was a right commanded by the dignity of France, a circumstance on which it was impossible to make a compromise—the letter proceeds: "Now Congress retrace their steps, they revoke the act of the first of March, the ports of America are open to French commerce, and France is no longer interdicted to the Americans. In short Congress engages to oppose itself to that one of the belligerent Powers, which should refuse to acknowledge the rights of neutrals. In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the first of November they will cease to have effect; it being understood, that in consequence, of this declaration, (remark, Mr. Speaker, this declaration, not this fact,) the English shall revoke their Orders in Council, and renounce the new principles of blockade, which they have wished to establish, or that the United States, conformable to the act you have just communicated, shall cause their rights to be respected by the English"—then follows in sweet accents His Majesty's declaration of love for the Americans, his solicitude for our prosperity, and the glory of France.

This is the gilded pill, in which lurks a most deadly venom, and which if we swallow, I fear all the political quackery of the nation cannot save us. On this letter, gentlemen rely for the revocation of the French edicts, and the freedom of our commerce with France. Allowing the most favorable construction to this letter and abstracting it from circumstances, and facts both before and after its date, it will not bear gentlemen out in their conclusion; it does not satisfy your law, and did not warrant the state of things which has been and is about to be produced. Instead of an existing and determined fact, we have a promise, and that too clogged with conditions, which it was well known to the Emperor would not or could not be complied with to the extent required by him. The conditions which depended on Great Britain, he knew, never would be yielded, and that which depended on ourselves was noth-

ing short of war with England or our own citizens, by oppressing them with a perpetual embargo. Instead of an authenticated act of revocation, bearing the authority of the most ordinary law or edict of the French Empire, we have nothing but a letter from the agent of the Government, and which the Emperor may disavow at pleasure—as was done in the case of the Minister of Marine, in his explanations to General Armstrong of the intended operation of the Berlin decree—instead of the restoration of the immense amount of American property, of which your citizens have been most cruelly and unjustly robbed by this fell monster of the age—and which the President declared, through the Secretary of State, in letters to General Armstrong of the 5th of June and July, must precede an arrangement with France, and was an indispensable evidence of the just purpose of France towards the United States; instead of having forty or fifty millions worth of our property restored, we are vauntingly told, that the property was confiscated as a measure of reprisal, that the principles of reprisal must be the law in that affair, and that a compromise would be inconsistent with the dignity of France—the plain English of which is, we have the property and we will keep it. Mr. Speaker, are we to be thus amused? Common honor and common sense revolt at the idea.

An honorable gentleman from South Carolina, (Mr. CHEVES,) whom I am very much inclined to respect, in an ingenious argument which he made the other day, to prove that the French decrees were revoked, told you that the *revocation* of those decrees depended on the mere *volition* of the mind of the Emperor; not requiring authentication or form; and although they might be revived the next moment, or substituted by other regulations equally affecting our neutral rights, still they were revoked. Thus attributing an authority to Bonaparte, descriptive of the power of the God of nature—when he said let there be light and there was light. And in reply to the gentleman from Massachusetts, (Mr. QUINCY,) who contended that *form* was essential to the repeal of a decree, he remarked that the gentleman wanted *form* and not substance. From this course of reasoning, I conceive the gentleman has admitted, that this pretended revocation has neither form nor substance. An edict may be defined to be, a law promulgated in such form as the institutions of the country require, or some act of sovereign authority, which has gone through the established forms of office, so as to become obligatory. The edicts of France have an appropriate form, their authority is attested by the Emperor and publicity is given, for the direction of those whose duty it is to carry them into effect. Sir, the decree of the most absolute monarch on earth is no decree till it is published. I contend that a *revocation* or modification of an edict require the same or equal solemnities with its enactment; the *fact* must exist and be officially made known before it becomes obligatory—no declaration of an intention to revoke, can constitute an actual revocation. The act ought not only to be determined

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and public, but susceptible of authentication, and capable of being communicated to the nation and the world.

This opinion, if it needs authority, is supported by the instructions of the Secretary of State to our Ministers at Paris and London, of the 5th July. Mr. Pinkney is directed in these words—"If the British Government should accede to the overture contained in the act of Congress, by repealing or so modifying its edicts, as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to General Armstrong, and if necessary, by a special messenger, and you will hasten to transmit it also to this Department—similar directions are given to General Armstrong."

Will it for a moment be contended, that the formal authentication required by the Administration; could mean a Jesuitical; insolent, equivocal, conditional letter, full of sound, and meaning nothing for our good? But, say gentlemen, the President received the evidence and issued his proclamation. This is true; but why has he done so, and how justified by the law under which alone he was authorized to act, is, to my mind, perfectly inexplicable; why, in the course of this arrangement with France, he has varied the ground which he first took—why dispensed with requisites at one time declared indispensable—why he advanced in exactions from Great Britain in proportion as he receded from demands on France, is left for himself and those who have more wisdom than myself, to determine. I trust, sir, I have a proper share of confidence in the Executive, and have no disposition to detract from his merit; but he is only man, and therefore subject to the frailties man is heir to. We have as yet no such maxim among us, as that the Executive is infallible—he can do no wrong. Whatever may be the disposition of other gentlemen, I am as yet too free, too much of a genuine *Republican* to subscribe to such a doctrine. I said, sir, that in the course of this arrangement with France, the administration advanced in their demands on Great Britain and receded as to France.

I argue from the documents, which accompanied the President's Message at the opening of the present session of Congress. The first letter in the documents from the Secretary of State to Mr. Pinkney, of the 20th January, 1810, does not contain a word on the subject of blockades—on the contrary, the Orders in Council are alone required to be repealed, as preparatory to a treaty with Great Britain; and the British Government are assured of the cordial disposition "of the President to exercise any power with which he may be invested, to put an end to acts of Congress, which would not be resorted to but for the Orders in Council, and at the same time of his determination to put them in force against France, in case her decrees should not also be repealed."

His letter of the 4th of May, which was the first after passing the act of the 1st of May last, that enclosed a copy of that act, is not published. On the 22d of May, another letter is sent enclosing a second copy of the act of Congress, in

which there is not to be found any requisition of a repeal of the blockade which is now made a *sine qua non* to an arrangement with Great Britain. But on the 2d of July, after the arrival of the John Adams, which brought the correspondence between our Ministers at Paris and London, and the Agents of the British and French Governments, on the subject of the repeal of their several orders and decrees; and when it was known that the British Government would not abandon her system of blockade and adopt the principles contended for by France—in this letter, I say, is contained not only a demand of the repeal of the Orders in Council, but also of the blockading order of May, 1806. I have already shown, from the letters before me, of the 5th June and July, that the restoration of the property of our citizens, confiscated by the order of Bonaparte, was declared by the Executive as an indispensable pre-requisite to an arrangement with the French Government. But the proclamation of the President has been issued without a cent of property being restored; nor is there the most distant prospect of our regaining a shilling from his iron grasp. Thus have the administration changed the ground first taken, increased the demands on Great Britain, and abandoned what was deemed indispensable on the part of France.

So conscious was the President of the just expectation of the people of this country, that provision would be made for the restoration of their property, he informs Mr. Armstrong on the 2d of November, the day the proclamation was issued, that "in issuing the proclamation it has been presumed, that the requisition on the subject of 'the sequestered property will have been complied with.'" From what this presumption arose, I am at a loss to say—the letter of the Duc de Cadore to General Armstrong, of the 12th September, had been received here; we had been told there would be no compromise; the law of reprisal must govern. Sir, the law of reprisal, as recognised by the laws of nations, could never have authorized the seizure. Reprisals can only be resorted to in case of an act of hostility committed by one nation on the property or citizens of another, and after compensation for the injury has been demanded and refused; and even in that case, the property taken is to be held only in pledge, till satisfaction is made by the offending nation. The moment that confiscation takes place the principle of reprisal ceases and it becomes an act of war. We had done no injury to France; we had violated neither the rights of the persons or property of her subjects—no demand of indemnity was ever made; not a complaint whispered, till nearly twelve months after the passing of the law, (and after its expiration too,) which is made the pretext for this monstrous outrage. The law of reprisal had nothing to do with the affair, and the confiscation of our property excludes the idea of restoration. I confess I was astonished, and felt humbled as an American, when I heard the language of the President of the United States, in his Message to Congress at the opening of the present session on this subject. Instead of that

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high indignant tone, demanded by the honor and feelings of the nation, he, in the mildness of calm philosophy, says, "It was particularly anticipated that as a further evidence of just dispositions towards them, restoration would have been immediately made of the property" of our citizens, seized under a *misapplication of the principles of reprisals*, and a misconstruction of a law of the United States. This expectation has not been fulfilled. Thus the question as to the restoration seems to be abandoned; one kind, loving word from Napoleon the Great, (as he has been triumphantly called in this House,) this modern Alexander (without his virtues, with all his faults) disarms us of our rage, and we give millions for his embrace.

It is in vain, sir, to seek for evidence of the revocation of the Berlin and Milan decrees in this letter of the 5th August; we have before us the most conclusive, the most damning testimony of their continued operation as late as the 25th December. By a letter from our Chargé d'Affaires, dated Paris, 10th December, we are informed that "the New Orleans Packet, lately arrived at Bordeaux, has, with her cargo, the *bonu fide* property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs, under the Berlin and Milan decrees." He further states, that "the case of the New Orleans Packet is the first which has occurred since the first of November, to which the Berlin and Milan decrees could be applied, and if they are applied in this case, it will be difficult for France to show one solitary instance of their having been practically revoked."

The letter from Charles Meyer, our Consul at Bordeaux, of the 14th December, states, that the brig New Orleans Packet, of New York, has been seized by the collector, and her cargo put in the imperial custom-house. The schooner Friendship, of and from Baltimore, has been sequestered. The gentleman from Virginia (Mr. GHOLSON) has argued against the operation of those decrees, on the authority of a letter from Mr. Russell, contained in that bundle of trash, scraped up from the surplus fund of rubbish on the files in the office of the Secretary of State, and which was carefully laid on our tables the other day, from which it appears, that no seizure had been made of American property since the 1st of November. But unfortunately for the gentleman and his argument, the letter alluded to is dated the 1st of December, when indeed no seizure had been made—but why? Because no vessels had then arrived. It was surely unnecessary to tell us what did *not* happen on the 1st of December, when we well know what did happen on the 10th of December. The gentleman further stated, that there was no evidence of the capture of the schooner Friendship; this statement is equally unfortunate; because we have actual evidence that this vessel was actually sequestered, and I do suppose the gentleman, on reflection, will be inclined to admit that the capture or seizure must have been made before condemnation could take place. But we

have still further evidence of the continued operation of those decrees by official acts of the French Empire, as late as the 25th of December, 1810. The Duke of Massa, in a letter to the Minister of Justice, dated Paris, 25th December, after reciting the letter of the Duc de Cadore, of the 5th August, the President's proclamation and the circular letter of Mr. Gallatin to the collectors of the customs, remarks: "In consequence of this engagement, entered into by the Government of the United States, to cause their rights to be respected, His Majesty orders that all the cases which may be pending in the Council of Prizes of captures of American vessels made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures to be declared null," &c. Nearly the same instructions are given at the same time to the director general of the customs by the Duke of Gaete—he says: "Those American vessels which have entered the ports of France since the 1st of November, or may enter in future, and those which have been sequestered in contravention of the decrees, must be the object of a special report." And on the 2d of February, the Emperor's intentions are to be made known. Can the most credulous, the most devoted mind now believe that those decrees are repealed, and that they have ceased to have effect—if so, why are our vessels seized at all? Why is their fate to be suspended awaiting the will of the Emperor? Are we ready to submit to be bound to security for our good behaviour? Are we thus to be whipped into the adoption "of strong and energetic measures against the common enemy?" Are we to torture our own citizens and take a hostile attitude against Great Britain, to obtain the liberation of a few vessels which have been brought before the Council of Prizes in France since the 1st of November? For, sir, be assured, if any are ever to be restored, it will only be those which have arrived in French ports since the first of November, and have not been finally condemned. As to those of a previous date, their fate is irrevocably sealed. What then is our situation if we pass this bill, or continue the law of last session, or give effect to the President's proclamation? We literally say to France, we abandon all claim to indemnity for the multiplied injuries and insults we have received from you, open our ports freely to you and close them against Great Britain, with the hope that you will repeal your Berlin and Milan decrees, and not condemn the vessels which you may have seized since the 1st of November. Thus, instead of bottoming the President's proclamation and this law on the actual repeal of those decrees, and the restoration of property, you expect a repeal to take place, bottomed on this law and the proclamation. Thus,

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in the spirit of modern chivalry, the injured party makes the concession and pays the price of peace.

Sir, if such a state of things had been attempted to be produced directly in relation to Great Britain or perhaps to France, at the last session of Congress, it would have been scouted with indignation from every section of the country.

Were it necessary, Mr. Speaker, I might contend, on the authority of the present and late Administration, that the operation of the Berlin and Milan decrees never would cease as to this nation, until complete satisfaction had been obtained for the injuries sustained under them. In the famous case of the Chesapeake (an event which I feel as much as any man) the sentiments of the Administration then were, that the act of aggression, although disavowed, continued in full force; that it never could be discontinued, never cease to exist, till complete compensation was made. If this opinion is correct, and I am inclined to give it my assent, then I say, the decrees of France never can cease to exist as to this nation, till we have been compensated for the incalculable insults and injuries we have sustained in consequence of their operation.

Mr. Speaker, the chairman of the committee (Mr. EPPES) who reported the bill, in reply to the very able speech of a gentleman from New York (Mr. EMOTT) who addressed you in the early stage of this discussion, appeared to me rather to question the purity of the source from which they came, than to have answered the arguments of that gentleman. This mode of reasoning may answer the purposes of gentlemen—but is surely unfavorable to fair investigation; it tends to abridge the freedom of debate, and prevent that firm, decisive, and candid exposition of those measures, which we conceive may vitally affect the happiness of the people. This is a privilege and a duty which I shall ever regard and ever perform. The same gentleman (Mr. EPPES) and several others, have reminded us of the arrangement made with Mr. Erskine; and offer it as a precedent for the justification of the President's proclamation and this bill, (which are substantially one and the same thing.) I had supposed that that unfortunate arrangement would have been kept out of sight by gentlemen on the other side of the House. It was to have been expected they would carefully avoid an attempt to make one bad precedent justify another; they must have forgotten how that arrangement militates against the proclamation, and the demand which is now so positively made of a revocation by Great Britain of her order of blockade of May, 1806. That arrangement, almost dictated by the Administration, and which was perfectly satisfactory to us all, did not contain one syllable, not the most distant intimation, relative to the repeal of that order, which now appears to excite so highly the indignation of gentlemen, and has been magnified into a cause of war. The order of blockade was at that time more recent, and if so injurious as now alleged, could not have escaped the attention of the Executive, and his vigilant Cabinet, when they were providing for

the annulment of the Orders in Council of January and November, 1807. That arrangement was made without requiring a repeal of the blockade—now nothing can be done without a repeal, and thus we are to be blockaded both at home and abroad.

It may be further remarked, that by the law of February, 1808, the President was authorized to suspend the embargo as to France or Great Britain, on the same conditions pointed out by the act of May, 1810. In the exercise of that power, the President instructed Mr. Pinkney to propose to the British Government a repeal of the embargo as to that nation, and its continuation against France, if the Orders in Council of January and November, 1807, should be rescinded. At that time nothing was said, no demand was made, not even a proposition offered on the subject of the blockade in question. My attention, sir, has been somewhat drawn to this part of the subject by the importance which has been given to it in the documents before me, and the arguments of gentlemen of this House, particularly the gentleman from Virginia, (Mr. EPPES,) who said much on this subject the other day, in answer to arguments which the gentleman from New York (Mr. EMOTT) did not make. He reiterated last night that his arguments were unanswered and unanswerable. I do not, profess, sir, to be perfectly acquainted with the practical extent of the order of blockade of May, 1806, nor do I know the precise quantum of injury we have sustained by it, nor am I to be understood as attempting its justification—I should be the last to concede any principle or any right to which my country has a claim. But, sir, I am compelled to believe, that an artificial importance is at this moment given to the subject, which it has not received at any other period since the adoption of that regulation by the British Government. I have already shown that, in the negotiation of 1808, and in the arrangement with Mr. Erskine, the question was not even made a matter of contestation; and, sir, from an examination of the Executive papers, from the date of the order of the blockade down to the present session of Congress, I have not been able to discover a single paper remonstrating against the order, or insisting on its revocation, nor do I know of a single case of the condemnation of an American vessel under its operation. On the contrary, at the time of its adoption, (during the administration of Mr. Fox, who was believed to be as friendly disposed towards us, as any man who ever administered the affairs of the British Cabinet,) this measure was spoken of by our Minister at London (Mr. Monroe) as a relaxation favorable to neutral commerce. It may not be improper to refer to the order itself, as communicated by Mr. Fox to Mr. Monroe, on the 16th of May, 1806; after the preamble this note states "that the King, taking into consideration the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of his subjects, has thought fit to direct that necessary measures should be taken

'for the blockade of the coast, rivers, and ports, 'from the river Elbe to the port of Brest, both 'inclusive; and the said coast, rivers, and ports, 'are, and must be considered, as blockaded. But 'His Majesty is pleased to declare that such block- 'ade shall not extend to prevent neutral ships 'and vessels, laden with goods not being the prop- 'erty of His Majesty's enemies, and not being 'contraband of war, from approaching the said 'coasts and entering into and sailing from the 'rivers and ports; (save and except the coast, 'rivers, and ports, from Ostend to the river Seine, 'already in a state of strict and rigorous block- 'ade, and which are to be considered as contin- 'ued,) provided the said ships and vessels so ap- 'proaching and entering (except as aforesaid) 'shall not have been laden at any port belonging 'to, or in possession of, His Majesty's enemies, 'and that the said ships and vessels so sailing 'from the said rivers and ports (except as afore- 'said) shall not be destined to any port belonging 'to, or in possession of His Majesty's enemies, nor 'have previously broken the blockade." This order, then, only excludes from those ports ves- sels having enemies' property on board or articles contraband of war, in both of which cases, they are liable to seizure by the law of nations, at least, it has been long contended for on the part of Britain; it also prevents the direct carrying trade from one port to another of an enemy. If this latter extension is not recognised by the law of nations, it is generally the subject of treaty, and was provided for by our treaty with the British Government, and the late convention formed by Mr. Monroe with the British Govern- ment, but which was rejected principally because Great Britain required us not to submit to the Berlin decree—a requisition, sir, infinitely short of what we are now to comply with, at the dic- tation of France—by which colonial produce was required to be relanded in the United States before it would be admitted into the ports of the Continent. By this order, *bona fide* neutral ves- sels, with neutral produce, sailing from our own country, never were affected.

The gentleman from Virginia (Mr. EPPES) has said this order of blockade has not a single feature of a regular blockade; in this, the gen- tleman is tolerably correct, and when he denoun- ces, what in the fashionable cant of the day are called paper blockades, I join most heartily in the execration. It is true this order of May, 1806, has scarcely a feature of a regular blockade. It was not avowed at the time to be even a con- structive blockade, nor was the right contended for of blockading without an actual investing force. It does not, like ordinary blockades, at- tempt a complete prohibition to all trade with those ports, but only to the particular objects and specified cases which I have mentioned. The previous measures of France are declared by Mr. Fox to be the cause of this order. What were those measures? They were no less, as regards ourselves, than a violation of the treaty which had been solemnly entered into between this country and France; by harassing our trade,

seizing and confiscating our vessels in pursuing the commerce guaranteed to us by that treaty; she had usurped authority in almost every port and city from Elbe to Brest, and excluded the introduction of British products and merchan- dize, whether belonging to American citizens or British subjects.

Now, sir, let me state to you the language of our Minister (Mr. Monroe) at the time this or- der was issued. In his letter of the 17th of May, to the Secretary of State, speaking of the order, he says, "the note is couched in terms of re- 'straint, and professes to extend the blockade 'further than it has heretofore done, neverthe- 'less it takes it from many ports already block- 'aded, indeed all east of Ostend and west of the 'Seine, except in articles contraband of war and 'enemy's property, which are seizable without 'blockade; and in like form of exception, con- 'sidering every enemy as one Power, it admits 'the trade of neutrals within the same limits to 'be free, in the productions of enemy's colonies, 'in every but the direct route between the colony 'and parent country.

"It cannot be doubted but the note was drawn 'by the Government in reference to the question, 'and if intended by the Cabinet as a foundation 'on which Mr. Fox is authorized to form a treaty, 'and obtained by him for the purpose, it must be 'viewed in a very favorable light; it seems clear- 'ly to put an end to further seizures, on the prin- 'ciple which has heretofore been in contestation." This view of the subject, which surely is a fair one, connected with the silence of the Adminis- tration for four years, must put an end to the clamor so often raised against this order, which has been the alleged cause of the Berlin decree, and charge against Great Britain, of having been the first aggressor on our neutral rights. Sir, we have indeed been insulted, injured, and abused by both nations, to an extent which would justify any measures in our power, but let us not palliate the crimes of one, and magnify those of the other; and above all let us not whip ourselves because they will not respect us; let us not become so Quixotic, as to act the part of a famous knight in the tales of chivalry, who tortured himself be- cause his mistress would not be kind.

Mr. Speaker, as the arrangement with Mr. Erskine has been often mentioned, and much re- lied on by the advocates of this bill, it deserves some further notice. That arrangement was the first act of the present Executive, after he came into office; it was presumed to have been fairly and properly made—it was hailed as a political jubilee by all denominations of politicians—par- ticularly those who had not contributed to the elevation of the present Chief Magistrate; we thought we perceived in that event the evidence of a disposition in the present Executive (which we could not discover in his predecessor) to re- lieve this country from that system of commer- cial restriction, that self-destroying policy, which had made us poor indeed; we also thought a de- termination was manifested not to decline any advantageous accommodation with Great Britain,



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whether France said yea or nay. It will be but too well remembered that we had been groaning for two years under the pressure of non-importation, embargo, and non-intercourse—your treasury was drained, your citizens unable to pay their debts, and your courts of justice actually shut up, at least so far in many States (and among the rest the State which I have the honor in part to represent) as to suspend the effect of executions; your cities and seaports were inactive or deserted, gloom and dismay marked the features of the nation, and hope had almost bid us farewell; we fancied in this arrangement the glimmerings of returning sunshine, peace, and prosperity—with honest and upright hearts, we were willing to applaud the hand that gave it, without questioning or suspecting the manner or motives with which it was given. The delusion soon vanished; and I have no hesitation to declare, had I then known what I now know, I should have not offered such unqualified applause.

The arrangement with Mr. Erskine differed from the present, in other respects than those pointed out in the preceding part of my remarks. It opened intercourse with Great Britain, but did not change the state of our relations with France, by imposing any additional restrictions—we were then in a state of non-intercourse with France, and that state was continued; in the present case, we do not preserve the same state of relations with Great Britain, but impose restrictions which did not exist at the date of the proclamation.

The arrangement with Mr. Erskine, it is true, like the letter of the Duc de Cadore, was to take effect *in futuro*, but, for a very different and better reason, it required the sanction of his Government, and time was necessary to obtain it—not so with this deceitful letter—it was written at the French Court, the sign manual of the Emperor could have been affixed, and orders for the cessation of the Berlin and Milan decrees could and ought to have immediately issued. If it had been the honest and fixed intention of Bonaparte to put an end to the operation of those decrees, in consequence of our law of May last—why ought he not to have done so on the 5th of August, as well as promise to do so on the first of November? Our law was then before him, and he knew the declared intention of this Government. Will it be said here, as he has said, “no reliance could be placed in the Americans?” Shall we then trust him who refuses to trust us? I, sir, for one, will not.

Mr. Speaker, let us make a very strange and very false supposition, that the Berlin and Milan decrees were actually repealed, and did cease to have effect on the first of November. What have we gained? What advantage have we derived from it? And have we not been officially informed by the French Minister in this city (General Turreau) in his letter to the Secretary of State, of the 12th December, 1810, that our most valuable productions, particularly of the Southern States, are at this moment excluded from the ports of France? As to the important articles, cotton and tobacco, he says: “their im-

portation into France is at this moment especially prohibited, but I have reasons to believe (and I pray you meanwhile to observe, sir, they do not rest on any facts) that some modifications will be given to this absolute exclusion. These modifications will not depend on the chance of events, but will be the result of other measures, firm and pursued with perseverance, which the two Governments will continue to adopt to withdraw from the monopoly and from the vexations of the common enemy a commerce loyal and necessary to France as well as the United States.” In this letter we find the touchstone, the true clue to French favor—war with England. Connected with this letter from Turreau, is a decree of the 15th July, 1810, which, in point of principle and arrogance, is not surpassed by any act in the history of Bonaparte. By this decree thirty or forty American vessels may import into France (under license) cotton, fish, oil, dye-wood, salt-fish, cod-fish, and peltry; they must export wine, brandy, silks, linens, cloths, jewellery, household furniture, and other manufactured articles; they can only depart from Charleston and New York, under the obligation of bringing with them a gazette of the day of their departure, also a certificate of the origin of the merchandise, given by the French Consul, containing a sentence in cypher. The French merchants who shall cause their vessels to come, must prove that they are concerned in the fabrics of Paris, Rouen, and other towns. Here is an attempt to extend French influence by bribing a select class of our merchants; granting favors to favorites. It is an attempt to make commercial regulations in our own ports, and to violate our Constitution, by giving a preference to the ports of Charleston and New York, over all the rest in the United States, which is specially denied by the Constitution. In addition to all this, we have a list of duties established at the French custom-house on the 5th August (the very day on which twenty or thirty American vessels and cargoes were sold and the proceeds given over to Bonaparte—the very memorable 5th August, the birthday of the celebrated letter of the Duc de Cadore) subjecting long staple cotton to a tariff of eighty cents per pound, short staple sixty cents, and tobacco forty cents per pound. By another decree of the 12th September, 1810, potash is taxed at one dollar twenty-five cents, cod-fish two dollars, rice four dollars per hundred—thus are we loved, favored, and taxed.

There can be no importation of American productions into France but on terms utterly inadmissible. The act of May last, in the language of the Secretary of State, had for its object not merely the recognition of a “speculative, legitimate principle, but the enjoyment of a substantial benefit. The overture then presented obviously embraced the idea of commercial advantage, it included the reasonable belief, that an abrogation of the Berlin and Milan decrees would leave the ports of France as free for the introduction of the produce of the United States, as they were previously to the promulgation of the decrees.

If, then, for the revoked decrees, municipal laws, producing the same effect have been substituted, the mode only and not the measure has undergone an alteration. If France, by her own acts, has blocked up her ports against the introduction of the products of the United States, what motive has the Government in a discussion with a third Power to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes would obtain a market in any of her ports? In such a state of things, a blockade of the coast of France would be to the United States as unimportant as would the blockade of the Caspian sea. This is the language of truth and common sense, language which I did not very much expect to hear from the Secretary at this time; because it exposes the proclamation of the President, and condemns the present bill. But truth, like murder, will out, and it ought to strike dumb the advocates of this bill, and open their eyes to a different policy. But, sir, going on to the supposition that the French decrees are actually repealed, and cease to have effect, pursuing the principle about to be established of taking words for deeds, and form for substance, what is to become of the promise of Lord Wellesley to Mr. Pinkney, of the 31st of August, 1810—when he states that he is commanded by His Majesty to repeat the declaration made to this Government in February, 1808, of His Majesty's desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary; and to assure us that whenever the repeal of the French decrees shall have actually taken effect, and the commerce of the neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those decrees, he will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt. Here is a promise equally solemn, (and as there is at least as much virtue in the British Government as there is in that of France) as much to be relied on as that of the Duc de Cadore, and as certainly as the Berlin and Milan decrees were revoked, and would cease to have effect on the first of November, so certainly have we the same assurance that the orders of Great Britain would be rescinded. Shall we then believe the one and not the other? Shall we frown and look big at England, while, with timid and abject submission, we crouch at the feet of France, and quietly rivet the chains prepared for us? Mr. Speaker, the goddess of justice has been described as being blind, with sword in one hand, and the scale and balance in the other, but if she is invoked in this measure, she comes blind indeed, with a sword in one hand, but no balance in the other; in one hand is the emblem of war, in the other the badge of slavery.

Sir, are we apprized of the effect which the present measures may have on the property of

our citizens, at this moment in the power of Great Britain, in her ports and those of her allies, Spain and Portugal? Have we forgotten the French principle of reprisals, and the sort of recognition they have received by the letter of the Secretary of State to General Armstrong, of the 5th of November, 1810, in which he was authorized to enter into a conventional arrangement with the French Government, requiring the sanction of the Senate for the restoration of French property seized under our non-intercourse law, as a condition for the restoration of American property condemned and sequestered under the Rambouillet decree of March, 1810? It is true we should have lost nothing by such a convention, because no French property had been seized by us under that law, and the forfeitures under the non-intercourse law contemplated violations by our own citizens, rather than French violations; but, sir, the principle is important, and unless we have more reliance on the justice and forbearance of England, than gentlemen declare they have, ought we not to be apprehensive that she will avail herself of this principle: follow the example of France, fill her coffers with our treasure, and trust to negotiation for forgiveness? This, sir, to my mind, is an important consideration, and well deserves the attention of gentlemen.

If war with England must happen, let it be done openly and for ourselves; let us not commence the attack by practising on our own citizens; and let it not be said we have been caught in the snares of Bonaparte. Mr. Speaker, I do not oppose this bill because it professes to give some relief to those merchants whose vessels sailed before the date of the proclamation, and which may have departed from a British port, prior to the 2d of February, 1811, but, sir, because I wish to rid the country of this whole consumptive system; and, if that cannot be done, I will not aid in propping up the President's proclamation, by taking from the judiciary of the country the power of deciding on its validity, which is one of the avowed objects of this bill. I had rather trust to the opinion of the judges for entire relief to our citizens, from the operation of the law of May, 1810, than grant the partial exemption contemplated by this bill. The honorable gentleman (Mr. EPPES) who reported this bill, declares that its great object is to prevent questions arising in the courts, on the construction of the law of May, 1810, and the effect of the President's proclamation. This, to my understanding, is legislating retrospectively; it is *ex post facto*; and, like the Rambouillet decree, is not only prospective, but retroactive. It takes from our citizens the right of appealing to the courts of justice for justice, and makes the fiat of the Executive the supreme law—a doctrine subversive of the first principles of republicanism, and strange to be advocated by gentlemen who came into power under the name of Republicans.

It is in vain, Mr. Speaker, to seek for the justification of this measure from anything France has done, or from the indications which she has given of her fixed course of policy. Her great

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object is the destruction of the commerce of the world; and she wishes to make us tributary to that end, and, if possible, to embroil us in a war with England.

The disposition of Bonaparte towards us rests not alone on his acts of aggression, rapine, and plunder; the imprisonment of our citizens, the burning and sequestration of our property. He has heaped upon this devoted country all the epithets which malice could suggest or tyranny dictate; he has exhausted the cup of bitterness, and made us drink the dregs of humiliation; he has declared his decrees should suffer no change, and that the Americans should take the positive character of allies or enemies. As long ago as the 15th of January, 1808, he issued a declaration of war for us against Great Britain; an unconditional surrender of your rights is demanded, or an obedience to his dictates. And are we not in the act of yielding obedience? Sir, the nation, which pretends to dictate laws to another, offers chains. With more than christian charity do we seem to forget and forgive the indignities offered to our national character; and the unkind, the severest cut of all to the present Administration, contained in the letter of the Duc de Cadore to General Armstrong, of the 17th of February, 1810; in which we are told that his Majesty could place no reliance on the proceedings of the United States. We are advised to tear to pieces the act of our independence; declared to be more abject than the slaves of Jamaica; that we are men without honor, energy, or just political views; that we will be obliged to fight for interest, after having refused to fight for honor. Our present rulers are there contrasted with the brave and generous heroes of our Revolution, and they are declared to be fit for the yoke which had been thrown off by their ancestors. This letter had scarcely reached our shores, the ink was scarcely dry, it was fresh in our memories, when the letter of the 5th of August was received; which, like a Lethæan draught, threw the shade of oblivion over our insults and our wrongs; we sipped the poison as it fell, and I fear it is fast spreading through the body politic.

Mr. Speaker, I turn with disgust from those polluted pages before me—this history of our wrongs, this tyrant's love—would to God they could be blotted from our memories; or, if remembered, let it be with abhorrence and detestation.

I deprecate the course of policy, if policy it may be termed, which is now about to be forced upon us. I protest against it as a measure injurious to ourselves; weak, temporizing, and partial in its operation on foreign nations; unauthorized by the actual state of things; and calculated to hasten the period of our union with the destinies of France.

Sir, unless we turn from this wayward course, this highway to ruin, the time cannot be very distant when your deserted ports, your uninhabited cities, your oppressed people, and even your firesides and your altars will only exhibit the sad signs of what they were. And I fear, sir, the

period is fast approaching when it will not again be said, "that we are a people with whom the fierce spirit of liberty is stronger than among any other people on earth; whose institutions inspire them with lofty sentiments; who do not judge of an ill principle only by an actual grievance; but who anticipate the evil, and judge of the pressure of the grievance by the badness of the principle; who snuff the approach of tyranny in every tainted breeze."

When Mr. P. had concluded, the House adjourned to six o'clock this evening.

FEBRUARY 27—Six o'clock, P. M.

The House was called to order, and resumed the unfinished business.

A motion was made by Mr. RANDOLPH, to postpone the subject to Friday next, and lost—ayes 36 noes 36.

A motion was then made by Mr. R., to postpone it until to-morrow.

On this motion a debate, which from its nature caused irritation, took place, in which Messrs. RANDOLPH and EPPES were the principal speakers.

Much warmth was excited, and frequent calls to order made.

The question on postponement, till to-morrow, was decided by yeas and nays. For postponement, 44; against it, 74—as follows:

YEAS—Joseph Allen, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, William Ely, James Emott, Barent Gardenier, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBryde, William Minor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, junior, Elisha R. Potter, Josiah Quincy, John Randolph, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Langdon Cheves, Matthew Clay, John Clifton, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Samuel McKee, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John

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Smith, Samuel Smith, John Thompson, Uri Tracy, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

Mr. PITKIN spoke more than an hour against the bill generally, and in support of the particular proposition which he was about to make. He contended that the Emperor of France had not fulfilled his engagement to the United States, inasmuch as the decrees, if revoked, which he denied, had not been revoked on the day on which he had engaged to revoke them. He quoted the history of the connexion of Spain with France as evidence of the perfidy of Bonaparte, from whom he said no compliance with his promises could be expected, &c. In supporting his amendment, Mr. P. contended for its beneficial effects to our merchants; and it would not, he said, be more a breach of our contract with France than the first section of the bill now before the House. The one was, in fact, as much a departure from the engagement with France as the other. The following was the amendment offered by Mr. PITKIN:

*Provided, also,* That nothing in this act, or the act to which this is a supplement, shall be construed to affect any vessels owned wholly by a citizen or citizens of the United States, or the cargoes of any such vessels which shall have cleared out from any port in the West Indies within — days after the 2d of February, 1811.

The following were the yeas and nays on the motion:

YEAS—Joseph Allen, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, James Cochran, John Davenport, jr., William Ely, James Emott, Barent Gardener, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Ebenezer Huntington, Robert Jenkins, William Kennedy, Herman Knickerbacker, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, William Milnor, Samuel L. Mitchell, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, junior, Josiah Quincy, John Randolph, John A. Scudder, Daniel Sheffey, Dennis Smelt, Samuel Smith, Richard Stanford, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Archibald Van Horn, Laban Wheaton, Ezekiel Whitman, and James Wilson—46.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, William Crawford, John Dawson, Joseph Desha, John W. Eppes, William Findley, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, John Love, Aaron Lyle, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Ebenezer Sage, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, John Smith, Uri Tracy, George M. Troup, Charles Turner, junior,

Robert Whitehill, Robert Witherspoon, and Robert Wright—58.

Mr. PITKIN again moved to amend the section, by inserting after the provision excepting from the operation of the section, vessels which sailed for ports beyond the Cape of Good Hope prior to the 10th day of November, 1810, the words "or any ports in the West Indies." He said his object was to place the traders in our produce to the West Indies on the same footing with the great East India merchants.

For the amendment, 49; against it, 55—as follows:

YEAS—Ezekiel Bacon, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, James Cochran, John Davenport, junior, William Ely, James Emott, Barent Gardener, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Ebenezer Huntington, Robert Jenkins, William Kennedy, Herman Knickerbacker, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, William Milnor, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, junior, Elisha R. Potter, Josiah Quincy, John Randolph, John Ross, John A. Scudder, Daniel Sheffey, Dennis Smelt, Geo. Smith, Samuel Smith, Richard Stanford, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, Archibald Van Horn, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, John Love, Aaron Lyle, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, John Smilie, John Smith, George M. Troup, Charles Turner, junior, Robert Whitehill, Robert Witherspoon, and Robert Wright.

Mr. LYON said there was no use in sitting here when gentlemen would not answer arguments that were advanced; and, when the only effect of his staying here was to keep a quorum to vote on the bill, he would not himself consent to remain longer. He moved an adjournment. Lost—ayes 24.

A motion was then made by Mr. STURGES, to add to the proviso, in favor of East India traders, the following:

"And, also, that where any vessel belonging to a citizen or citizens of the United States, shall have arrived after the second day of February, 1811, at any port of the United States from any British West India port, and said vessel shall have been, or shall be seized by virtue of this act, or the act to which this is a supplement, the owner or owners may apply to the district judge of the district where such seizure is made,

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(giving reasonable notice to the person or persons making such seizures,) and if it shall appear to the satisfaction of said judge, by statement or account current, on oath or affirmation, or such other proof as the nature of the case will admit, that said vessel had, at the time of her arrival, no other products or property from any British West India port than what arose from property actually exported from the United States previous to the proclamation of the President of the United States of the 2d of November, 1810, in that case the said district judge shall certify the fact to the proper officer having the custody of such vessel or property, whose duty it shall be thereupon to release and restore the same to the owner or owners thereof."

For the motion, 39; against it, 66—as follows

YEAS—Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, William Kennedy, Nathaniel Macon, Archibald McBryde, Samuel McKee, William Milnor, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Dennis Smelt, Richard Stanford, John Stanley, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Archibald Van Horn, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAVS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholsen, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Robert Witherspoon, and Robert Wright.

Mr. POTTER said he presumed no gentleman wished to enforce the non-intercourse in case France should not have revoked her decrees. Under this idea he moved to insert, after the clause declaring the non-importation in force as to Great Britain, the following amendment:

"In case France has so revoked or modified her decrees as that they have ceased to violate the neutral commerce of the United States."

Mr. EPPES remarked that this amendment would go to reduce things to that state which this law was intended to guard against, viz: it would place the decision on the existence of the non-intercourse at the discretion of the courts. He remarked also, that it was not proposed on

either side of the House, after the arrangement, in April, 1809, with Great Britain, to re-enact the non-intercourse with her, conditioned that she should not fulfil her engagement. Why was it now thought necessary in this case?

Mr. WHEATON rose, and on this motion went at large into the merits of the bill, and of the course of Administration for years past. The bill was unnecessary; he could see no use for it, unless to favor the views of the great Napoleon, to the depression of Great Britain. He went into a train of reasoning to support the opinions he advanced, and to show that for the last ten years everything had gone wrong, and that this bill was a part of the same pernicious system.

The question on Mr. POTTER's amendment was decided by yeas and nays, as follows:

YEAS—Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, John Campbell, William Chamberlin, Epaphroditus Champion, John Davenport, jun., William Hale, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, William Kennedy, Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, William Milnor, Jonathan O. Moseley, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Randolph, Daniel Sheffey, John Stanley, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman—35.

NAVS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholsen, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, Samuel McKee, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Robert Witherspoon, and Robert Wright—66.

Mr. MUMFORD moved to make a verbal amendment in the proviso for excepting from seizure vessels sailing for a port beyond the Cape of Good Hope previous to the 10th of December.

Mr. PITKIN made a motion to strike out the whole proviso. He was unwilling that such a distinction should be made in favor of a particular class of merchants. He would place all merchants on the same footing.

Mr. RANDOLPH moved to recommit the section under consideration for the purpose of inserting the proviso just offered by Mr. PITKIN and rejected. Motion lost—60 to 40.

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Messrs. PICKMAN, GARDENIER, and EPPES, opposed Mr. PITKIN's motion.

Messrs. STANLEY and POTTER spoke in favor of it.

The motion was negatived—43 to 33.

Mr. MUMFORD's motion for a verbal amendment was then carried.

About half past one o'clock, the question was taken on concurring with the Committee of the Whole in the agreement to the second section of Mr. EPPES's amendment, and carried.

Mr. LYON moved to strike out so much of the last section under consideration as designates by numbers the sections of the non-intercourse law to be revived, and in place thereof to insert the sections themselves at large. He said that it would be insulting the people of the United States to pass the bill as it now stood, as they would not be able to ascertain the meaning of the law.

A division of the question was called for, and the question on striking out the words proposed to be erased was decided by yeas and nays, and lost—yeas 13, nays 67, as follows:

**YEAS**—James Emott, Barent Gardenier, Thomas R. Gold, Ebenezer Huntington, Matthew Lyon, Archibald McBryde, Timothy Pitkin, jr., Elisha R. Potter, John Stanley, Jacob Swoope, Benjamin Tallmadge, Archibald Van Horn, and Ezekiel Whitman.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Wm. Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, and Robert Witherspoon.

It was now half past two o'clock in the morning.

Mr. LYON then called for the reading of all the sections which were enumerated in the section under consideration.

The reading was objected to by Mr. W. ALSTON, on the ground that it was only intended to consume the time of the House.

The question was stated by the SPEAKER, whether these sections should be read.

Mr. GARDENIER was speaking rather diffusely on this question, when the previous question was enforced.

Mr. GHOLSON called for the previous question on the motion for reading these sections.

The previous question was then taken accord-

ing to the rules of the House, as follows: "Shall the main question be now put?" and carried in the affirmative.

Mr. GARDENIER then began to debate the main question on reading the document.

Mr. GHOLSON objected to debate in this stage of the business as out of order, the House having determined the previous question in the affirmative, and thereby precluded debate.

The SPEAKER decided that, according to the late practice of the House, it was in order to debate the main question after the previous question had been taken. He said that this practice had been established by the House by a decision two years ago, in opposition to an opinion which he himself had always entertained, and had then declared. His decision on that occasion was reversed, and he felt himself bound by that expression of the sense of the House.

Mr. GHOLSON appealed from the decision of the Speaker.

A debate commenced on this appeal from the Speaker's decision. Mr. P. B. PORTER made a question of order whether the appeal could be debated. The SPEAKER decided that such was the practice of the House.

From this decision, also, an appeal was made by Mr. P. B. PORTER, and the decision reversed by a vote—yeas 13, nays 66, as follows:

**YEAS**—Abijah Bigelow, Barent Gardenier, Richard Jackson, junior, Matthew Lyon, Nathaniel Macon, Archibald McBryde, Elisha R. Potter, John A. Scudder, Richard Stanford, Jacob Swoope, Archibald Van Horn, Laban Wheaton, and Ezekiel Whitman.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., Wm. Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Rob't Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, William McKinley, Pleasant M. Miller, Saml. L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Uri Tracy, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

The question recurred on Mr. GHOLSON's appeal. The decision of the Chair was reversed; and it was decided by the House, that after the previous question was decided in the affirmative, the main question should not be debated.

The main question, viz: "Shall the document be read?" as called for by Mr. LYON, was taken, and determined in the negative.

Mr. BIBB moved that the bill be engrossed, and read a third time, and called for the previous

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question; but, at the suggestion of Mr. TROUP, withdrew his motion in order to enable Mr. T. to propose a new section to the bill, authorizing the President to employ a number of vessels to enforce the provisions of the bill.

Mr. MACON observed, that the section offered by the gentleman from Georgia, (Mr. TROUP,) involved an expenditure of money, and therefore put it to the Chair, whether the bill ought not to be recommitted to a Committee of the Whole, pursuant to the rules of the House.

Mr. TROUP said, that, to relieve the House from any embarrassment, he would now withdraw his amendment.

The question recurring on ordering the bill to be engrossed for a third reading,

Mr. MACON addressed the Chair on the merits of the bill at some length. He believed the President to have been justified in issuing his proclamation by the Duke de Cadore's letter; but as subsequent information had been received from France, the question appeared to him to resolve itself into this. Was the sequestration of our vessels from the 1st November to the 2d of February a violation of our neutral rights or not?—Had the decrees been so modified, under present circumstances, as that they had ceased to violate our neutral commerce? He conceived not, and should therefore vote against the bill. He deprecated the course of debate, and the irritation which prevailed in the House, as tending to bring this body into disrepute, &c.

Mr. GARDENIER offered the following amendment to the bill:

*"And be it further enacted, That if the President of the United States shall not, on or before the — day of — next, announce, by proclamation, that the French Government has caused reparation to be made for such spoliation upon the neutral commerce of the United States as have been perpetrated in consequence of the unlawful edicts of France, violating that commerce, then the act to which this is a supplement shall cease and be void, anything therein, or in the proclamation of the President of the United States of the 2d November last, contained, to the contrary notwithstanding."*

On motion of Mr. RINGGOLD, the previous question on the amendment was required.

The previous question was put and carried, Mr. GARDENIER proceeded to debate his amendment.

The SPEAKER declared, according to the decision of the House this evening, that the question now admitted not of debate.

Mr. GARDENIER appealed from the Speaker's decision, which was confirmed by the House.

The main question was then put on Mr. GARDENIER's amendment, and negatived.

Mr. G. then moved to amend the bill by adding thereto the following section:

*"And be it further enacted, That if the President of the United States shall not, on or before the — day of — next, announce, by proclamation, that the French Government has caused restitution to be made of all vessels and cargoes seized by its order, or under pretence of any or either of its edicts violating the*

neutral commerce of the United States, or under any other unlawful pretence whatsoever, subsequent to the first day of November last, then and in such case the act to which this a supplement, shall and hereby is declared to be in force, as well against France and her dependencies as against Great Britain and her dependencies, to all intents and purposes, as if the proclamation of the President of the United States of the second day of November last had never been issued, anything in the said act, or in the said proclamation contained, to the contrary, in anywise notwithstanding."

Mr. RINGGOLD required the previous question.

Mr. RANDOLPH made some observations in the shape of inquiry of the Speaker as to the precise extent of the decisions on the subject of the previous question this evening; but he had not spoken many minutes, when, for something that was deemed objectionable in his remarks, he was called to order at once by several gentlemen.

Mr. RINGGOLD insisted on the call he had made for the previous question, as a right of which he would not be deprived.

The previous question being required by more than a sufficient number of members, it was put, and carried. The main question on the amendment was put and negatived.

It was now past four o'clock.

Mr. GARDENIER then moved the following amendment:

*And be it further enacted, That if the President of the United States shall not, on or before the — day of — next, announce, by proclamation, that all French edicts violating the neutral commerce of the United States have been revoked, and that the French Government has actually ceased to violate the neutral commerce of the United States, the act to which this is a supplement shall cease and be void, anything therein, or in the proclamation of the President of the United States, contained, to the contrary notwithstanding."*

The SPEAKER declared this amendment to be out of order, inasmuch as it was substantially the same with one which had been moved by Mr. POTTER, and negatived.

Mr. P. B. PORTER then said that, for the purpose of coming to a decision on the bill, and putting an end to a scene which was, to say the least of it, disreputable to the House, he moved for the previous question on engrossing the bill.

The previous question was taken and decided in the affirmative, and the bill ordered to a third reading—65 to 9.

The bill was then read a third time.

The previous question was required on its passage, and carried in the affirmative.

Mr. RANDOLPH twice successively moved an adjournment. Motions negatived; the first 65 to 10, the second 66 to 8.

The question on the passage of the bill was then decided in the affirmative—yeas 64, nays 12, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James

Cochran, William Crawford, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Huffy, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, Samuel McKee, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thos. Newbold, Thos. Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, Geo. Smith, John Smith, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Witherspoon.

NAYS—Abijah Bigelow, Barent Gardenier, Richard Jackson, jr., William Kennedy, Nathaniel Macon, Elisha R. Potter, John Randolph, Richard Stanford, Jacob Swoope, Archibald Van Horn, Laban Wheaton, and Ezekiel Whitman.

The House then adjourned to meet again at one o'clock.

[During the course of such a session as that of this evening, many circumstances occur of trivial importance, but yet sufficient to produce warmth, which it cannot be expected of a reporter of the deliberations of a Legislative body to report. Such incidents are of course omitted.]

The following is the bill as it passed this House:

**A. Bill supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."**

*Be it enacted, &c.*, That no vessel, owned wholly by a citizen or citizens of the United States, which shall have departed from a British port, prior to the 2d day of February, 1811, and no merchandise owned wholly by a citizen or citizens of the United States, imported in such vessel, shall be liable to seizure or forfeiture on account of any infraction or presumed infraction of the provisions of the act to which this act is a supplement.

**SEC. 2.** *And be it further enacted*, That, in case Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, the President of the United States shall declare the fact by proclamation; and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification in any suit or prosecution which may be instituted under the fourth section of the act to which this act is a supplement. And the restrictions imposed, or which may be imposed, by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued.

**SEC. 3.** *And be it further enacted*, That, until the proclamation aforesaid shall have been issued, the several provisions of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall have full force and be immediately carried into effect against Britain, her colonies, and dependencies: *Provided, however*, That any vessel or merchandise

which may, in pursuance thereof, be seized, prior to the fact being ascertained, whether Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner above-mentioned, shall, nevertheless, be restored, on application of the parties, on their giving bond with approved sureties to the United States, in a sum equal to the value thereof, to abide the decision of the proper court of the United States thereon; and any such bond shall be considered as satisfied if Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner above-mentioned: *Provided, also*, That nothing herein contained shall be construed to affect any ships or vessels, or the cargoes of ships or vessels, wholly owned by a citizen or citizens of the United States, which had cleared out for the Cape of Good Hope, or for any port beyond the same, prior to the tenth of November, one thousand eight hundred and ten.

THURSDAY, February 28.

A motion was made by Mr. RANDOLPH to amend the Journal of yesterday, in that part of the Journal where the main question was put on the passage of the bill supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," after the word "question," by inserting the following words: "without debate, being precluded by the decision of the House." And, the question being taken thereon, was determined in the negative.

The bill from the Senate, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved February sixteenth, 1811, was read twice, and the thirteenth section thereof committed to a Committee of the Whole to-day.

The bill from the Senate, entitled "An act to authorize the payment of certain certificates, credits, and pensions, and for other purposes," was read twice, and committed to a Committee of the Whole on Saturday next.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act to erect a light-house on Boon Island, in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, in the State of Massachusetts."

Whereupon, the said amendments were referred to a Committee of the Whole this day.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act for establishing trading-houses with the Indian tribes," and the same being twice read, were severally concurred in by the House.

THIRD CENSUS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:



FEBRUARY, 1811.

Returned Bill—Armed Neutrality.

H. OF R.

*To the Senate and House of  
Representatives of the United States :*

I transmit and recommend to the attention of Congress a report of the Secretary of State relative to deficiencies in the returns of the census.

JAMES MADISON.

FEBRUARY 28, 1811.

DEPARTMENT OF STATE, Feb. 27, 1811.

The Secretary of State respectfully represents to the President, that, agreeably to the several acts of Congress, authorizing the third census or enumeration of the inhabitants of the United States and the Territories thereof, instructions were issued to the several Marshals and Secretaries, conformably to the provisions of the law; in consequence of which, regular returns of the population of the following Districts and Territories have been received at the Department of State, to wit: Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Kentucky, North Carolina, Georgia, West Tennessee, the Territory of Louisiana, the Territory of Indiana, the Territory of Illinois, the Mississippi Territory, and the District of Columbia; and that returns remain to be received from the District of East Tennessee, the Territory of Orleans, the Territory of Michigan, the District of South Carolina, and from the District of Virginia. That, with respect to the latter, a letter has been this day received from Andrew Moore, Esq., Marshal of the District of Virginia, dated "Richmond, February 20, 1811," informing that "no return has been received from Norfolk city, Norfolk borough, or Petersburg;" that he had pressed his assistants in those divisions of his district by "repeated letters;" and that "from their silence he doubts whether they have done any part of the business." The Secretary of State further represents to the President that the first of March, 1811, is the time limited by law, for the Marshals and Secretaries to complete their returns to this Department, and, as that period is now at hand, he suggests the propriety of recommending to Congress the consideration of the subject, in order that timely provision may be made by the competent authority for obviating such doubts and difficulties as may occur accidentally, or through negligence, to prevent the perfection of the enumeration or return of the inhabitants of any District or Territory, or divisions thereof, within the time prescribed by the several acts authorizing the third census.

All which is respectfully submitted.

R. SMITH.

The Message was read, and, together with the report accompanying the same, referred to Mr. BURWELL, Mr. PITKIN, and Mr. CHEVES, to report thereon, by bill, or otherwise.

## RETURNED BILL.

The following Message was received from the  
PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States :*

Having examined and considered the bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting-house, in the Mississippi Territory," I now return the same to the House of Representatives, in which it originated, with the following objection:

"Because the bill, in reserving a certain parcel of land of the United States for the use of said Baptist

Church, comprises a principle and precedent, for the appropriation of funds of the United States, for the use and support of religious societies; contrary to the article of the Constitution which declares that Congress shall make no law respecting a religious establishment."

JAMES MADISON.

FEBRUARY 28, 1811.

The Message having been read—

*Ordered,* That to-morrow be assigned for the reconsideration of the said bill according to the Constitution.

## ARMED NEUTRALITY.

Mr. MUMFORD offered the following resolution for consideration:

"Whereas when two or more nations go to war, those that remain at peace retain their natural right to pursue their agriculture, manufactures, and commerce; to carry the produce of their labor to all places, belligerent or neutral, as usual; to come and go freely without injury or molestation; and, in short, that the war shall be to them as if it did not exist, (with the exception only of not furnishing either implements of war for the annoyance of the other, nor anything whatever to a place actually invested by its enemy.) And whereas as a state of war at present existing between Great Britain and France furnishes no legitimate right to either to interrupt the agriculture and commerce of the United States, or the peaceable exchange of its produce with all nations: And whereas no nation can submit to have its peaceable industry suspended at the mere will of other nations in violation of their natural rights: Therefore,

*Resolved,* That a committee be appointed to inquire into the expediency of authorizing, by law, merchant vessels of the United States to arm in defence of their persons and property on the high seas, against the spoiliations of all or any of the belligerents; and report by bill, or otherwise.

Mr. PITKIN said he had not the least objection to the resolution, but it was entirely unusual to prefix preambles to resolutions for appointing committees for inquiry. He said it was not only unnecessary but unprecedented.

Mr. WRIGHT spoke in favor of retaining the preamble. He had no objection to record his vote in support of the principles it contained.

The question on striking out the preamble was decided by yeas and nays. For striking out, 51; for retaining, 53—as follows:

YEAS—Joseph Allen, David Bard, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, Adam Boyd, James Breckenridge, Robert Brown, John C. Chamberlain, William Chamberlin, Martin Chittenden, James Cochran, Richard Cutts, John Dawson, James Emott, Thos. R. Gold, William Hale, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Nicholas R. Moore, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Lemuel Sawyer, John A. Scudder, Daniel Sheffey, John Smilie, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Charles Turner, junior, Nicholas Van Dyke, Archibald Van Horn, and Ezekiel Whitman.

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**YAYS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, William T. Barry, Burwell Bassett, William A. Burwell, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, John Clopton, William Crawford, Joseph Desha, William Findley, Meshack Franklin, David S. Garland, Thomas Gholson, Charles Goldsborough, Peterson Goodwyn, William Helms, Jacob Hufty, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, Aaron Lyle, Alexander McKim, William McKinley, Samuel L. Mitchill, John Montgomery, Thomas Moore, Gurdon S. Mumford, Thomas Newton, Elisha R. Potter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, Erastus Root, John Ross, Ebenezer Sage, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, George Smith, John Smith, John Thompson, Uri Tracy, George M. Troup, Robert Weakley, Robert Whitehill, and Robert Wright.

Mr. PITKIN said he was in favor of the resolution. He hoped that it was not merely a flourish, but that something was to grow out of it; that the committee would make a report authorizing the arming. And if they were to make such a report in a practicable form, it would find his support, although perhaps some who had voted to retain this preamble would not be found on the same side with him.

Mr. GOLDSBOROUGH moved to strike out the words authorizing the committee to report by bill or otherwise. He supposed the object of the gentleman was to issue a luminous manifesto on the subject of our rights. If he wished to exercise his talents in making such a report, he did not wish to embarrass the committee by requiring them to report by bill.

Mr. MUMFORD hoped the motion would not prevail. He assured the gentleman from Maryland that he did not wish to display his talents in writing manifestoes. If the resolution should pass, and he should be on the committee, the bill should, if possible, be reported before sundown.

Mr. GOLDSBOROUGH's motion was negatived—59 to 32.

Mr. BIBB said, that no doubt the subject of the resolution was important and worthy of consideration, but every gentleman must be confident that it could not be acted upon during the present session. He was unwilling to excite the public expectation when it could not be realized, and therefore moved that the resolution lie on the table.

The motion was negatived—46 to 44.

FRIDAY, March 1.

The following letter was laid before the House by the SPEAKER:

To the Hon. J. B. VARNUM,

*Speaker of the House of Representatives.*

SIR: The report of the Comptroller, at the beginning of the present session, having stated that my accounts remained unsettled, and that I stood charged with all the moneys disbursed for the United States during my agency in Algiers, Tunis, and Tripoli; and this report having given rise to some debate in the House of Representatives, I now take the liberty of transmitting to you the enclosed letter from the Comptroller, stating that the said account is settled.

I beg you will communicate this to the House for their information, that it may go into the same channel of publicity with the mistaken suggestion that I had remained for thirteen years a debtor in a great amount to the public Treasury.

I will only add, that this account, precisely as now passed at the Treasury, was settled in the year 1797, with Colonel Humphreys, then Minister at Madrid, from whom I had received the money, and to whom, alone, I conceived myself accountable. I naturally concluded that he had passed it as incorporated in his own accounts. And it was only this Winter, and in consequence of the above report of the Comptroller, that I came to the knowledge that my name was ever written on the books of the Treasury.

I have the honor to be, &c.

JOEL BARLOW.

WASHINGTON, Feb. 28, 1811.

TREASURY DEPARTMENT,

*Comptroller's Office, February 27, 1811.*

SIR: Your accounts as late agent of the United States, for negotiating with the Barbary Powers, are adjusted, and finally closed on the books of the Treasury. I have the honor to be, &c.

G. DUVAL.

JOEL BARLOW, Esq.

The letter was ordered to be printed.

On motion of Mr. NEWTON,

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of providing for the settlement of the accounts of the persons who have taken, under the direction of the Secretary of the Treasury, an account of the several manufacturing establishments and manufactures within their several districts, in pursuance of an act, entitled "An act further to alter and amend an act providing for the third census, or enumeration of the inhabitants of the United States;" and that they have leave to report by bill, or otherwise.

On motion of Mr. BIBB,

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of granting the consent of Congress to an act of the State of Georgia, passed the twelfth day of December, 1804, establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's; and that they have leave to report by bill, or otherwise.

Mr. ROOT, from the Committee of Claims, presented a bill concerning invalid pensions; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. DAWSON, from the committee appointed on that part of the President's Message, at the commencement of the session, presented a bill making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States; which was read twice, and committed to a Committee of the Whole to-day.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill declaring the consent of Congress to an act of the State of Georgia, passed the twelfth of December, 1804, establishing the fees of the harbor master and health officer of the ports of Savannah and

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## Fortifications.

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St. Mary's; which was read twice, and committed to a Committee of the Whole to-day.

On motion of Mr. EPPES, the several orders of the day were postponed.

Mr. EPPES then called for the order of the day on the bill authorizing a loan.

The House, accordingly, resolved itself into a Committee of the Whole on the said bill.

Mr. EPPES moved to fill the blank in the first section with "\$5,000,000;" which was agreed to.

The Committee rose, and reported the bill as amended; which report was concurred in, and the bill ordered to be engrossed for a third reading.

The House resolved itself into a Committee of the Whole, on the amendments of the Senate to the bill erecting light-houses on Boon Island, &c.; which was reported as concurred with, and agreed to by the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding fifty thousand men," to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill erecting the districts of Mumfremagog, Oswegatchie, and of the White Mountains; and on the bill, from the Senate, annexing part of Jersey to New York district, &c.; which, after considerable discussion, were reported, and ordered to a third reading.

The bill authorizing a loan was read a third time, and passed without opposition.

The bill respecting the districts of Mumfremagog, &c., and the bill for the relief of John Macnamara, were read a third time, and passed.

The bill authorizing the issuing of debentures in certain cases was taken up. On the question to postpone indefinitely—ayes 33, noes 56. The bill was then read a third time, and passed—ayes 55, noes 31.

Mr. BURWELL reported a bill for extending the time for completing the returns of the third census or enumeration of the people of the United States; which was read twice, and ordered to be engrossed.

The bill declaring the assent of Congress to an act of the State of Georgia, respecting certain fees of the health officer and harbor master of the ports of Savannah and Georgia, went through a Committee of the Whole, and was ordered to be engrossed for a third reading.

The House adjourned to six o'clock, p. m.

MARCH 1—Six o'clock, p. m.

The bill from the Senate, entitled "An act authorizing the President of the United States to accept the service of a number of volunteer companies, not exceeding fifty thousand men," was read twice, and committed to a Committee of the Whole to-day.

An engrossed bill to extend the time for completing the third census, or enumeration of the inhabitants of the United States, was read the third time, and passed.

An engrossed bill, declaring the consent of Con-

gress to an act of the State of Georgia, passed the twelfth of December, 1804, establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's, was read the third time, and passed.

An engrossed bill to annex a part of the State of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewistown; to establish a new district, to be called the district of St. Lawrence; to make Cape St. Vincent, in the district of Sackett's Harbor, a port of delivery; and out of the districts of Miami and Mississippi to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes, was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the thirteenth section of the bill from the Senate, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved sixteenth of February, 1811;" no amendment being made, the bill was ordered to a third reading to-morrow.

## FORTIFICATIONS.

On motion of Mr. DAWSON, the House resolved itself into a Committee of the Whole on the bill making further appropriations to complete fortifications.

Mr. DAWSON moved to fill the blank for the sum with \$131,000.

Mr. McKEE objected to such large annual appropriations for fortifications. He said he could not vote for this appropriation without further information.

The report of the Secretary of War on the subject was read.

Mr. MITCHELL read a letter of the Secretary of War to him on the subject.

The House adjourned at a quarter past 9 o'clock, without taking the question on the bill.

In the course of the day, Mr. MUMFORD several times attempted to call up his motion respecting the arming our merchant vessels, &c., but without success.

SATURDAY, March 2.

A letter was received from the Secretary of War, enclosing an account of the expenses of the National Armories at Springfield and Harper's Ferry, together with a return of the arms made and repaired at each, during the year 1810.

[At Harper's Ferry, arms manufactured in 1810 were 8,600; repaired, 606; expenses, including expense of additional buildings, \$155,090 19. At Springfield, Massachusetts, arms manufactured, 10,301; repaired, 406; expenses, \$122,774 08.]

Mr. NEWTON reported a bill allowing a reasonable compensation to the persons who have taken an account of the several manufacturing establishments; which was read a first and second time.

Mr. NEWTON proposed to fill the blank in the bill, for the amount to be appropriated, with

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\$70,000. After debate, this motion was negatively, as also were motions to fill the blank with \$60,000, \$50,000, and \$40,000. The blank was eventually filled with \$30,000; and, as amended, the bill passed to a third reading, and was then read a third time, and passed.

The bill appropriating a sum of money for completing the fortifications, &c., was read a third time, and passed.

The bill concerning invalid pensioners was gone through in Committee, and read a third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing a loan of money for a sum not exceeding five millions of dollars," with an amendment; and the bill, entitled "An act for the relief of John Macnamara," also with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act authorizing a loan of money for a sum not exceeding five millions of dollars;" and the said amendment being read, was concurred in by the House.

The House proceeded to consider the amendment of the Senate to the bill, entitled "An act for the relief of John Macnamara;" and the said amendment being read, was concurred in by the House.

An engrossed bill, making further appropriations for completing the fortifications commenced for the security of the ports and harbors of the United States, was read the third time, and passed.

An engrossed bill for allowing a reasonable compensation to the persons who have taken an account of the several manufacturing establishments and manufactures within the United States, was read the third time, and passed.

The bill from the Senate, providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, the 10th of February, 1811, was read a third time, and passed.

The bill concerning invalid pensioners was read a third time, and passed.

#### RETURNED BILL.

The House proceeded to reconsider the bill, entitled "An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting House, in the Mississippi Territory;" which was returned by the President of the United States, with objections.

The said bill was read at the Clerk's table, and is as follows:

An Act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting House, in the Mississippi Territory.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That Richard Tervin be and he is hereby authorized to produce to the Register of the Land Office and the Receiver of Public Moneys for the district east

of Pearl river, in the Mississippi Territory, evidence of his having inhabited and cultivated a tract of land in said Territory, prior to the thirtieth day of March, one thousand seven hundred and ninety-eight; and, in case such evidence shall be produced, the said Register and Receiver are required to grant to the said Richard Tervin a donation certificate for such tract of land, not exceeding six hundred and forty acres.

Sec. 2. *And be it further enacted,* That William Coleman be and he is hereby authorized to produce to the said Register and Receiver evidence of his right to a donation of a tract of land, on the Tombigbee river, in the said Territory; and in case he shall produce satisfactory evidence to the said Register and Receiver that he was entitled to a donation of such tract, according to the provisions of the second section of the act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," and the acts supplementary thereto, it shall then be lawful for the said William Coleman to locate a quantity of land equal to that to which he was entitled under the abovementioned provisions, on any lands of the United States which shall have been offered at public sale in the said district, and that shall then remain unsold; and it shall be the duty of the said Register and Receiver to issue a donation certificate to the said William Coleman for the land so located by him.

Sec. 3. *And be it further enacted,* That Edwin Lewis be entitled to the right of pre-emption in five acres of land, situate within the boundaries of a tract of land whereon he resides; which five acres was heretofore used for an encampment for the troops of the United States, so soon as the same shall cease to be used for that purpose; the said five acres to be paid for at the same price, and on the same terms and conditions, as are provided for lands granted by right of pre-emption in the Mississippi Territory.

Sec. 4. *And be it further enacted,* That Samuel Mims be and he is hereby confirmed in his title to a tract of land, containing five hundred and eighty-four acres, granted by the British Government of West Florida to William Clark, so as not to deprive the heirs of said Clark, or any other person or persons, of their legal remedy, if any they have, for the recovery of said lands from the said Mims, his heirs or assigns.

Sec. 5. *And be it further enacted,* That Joseph Wilson be and he is hereby authorized to enter with the Register of the Land Office his certificate of pre-emption right, granted to him by the Board of Commissioners for the district east of Pearl river, in the Mississippi Territory, for the quantity of four hundred and eighty acres of land, lying on the Tombigbee river, in the said Territory; and that payment be made therefor at the same price and on the same terms and conditions as are provided by law for other lands granted in right of pre-emption in said Territory.

Sec. 6. *And be it further enacted,* That there be reserved, the quantity of five acres of land, including Salem Meeting-house, in the Mississippi Territory, for the use of the Baptist Church, at said meeting-house.

J. B. VARNUM,

*Speaker of the House of Representatives.*

GEO. CLINTON,

*Vice President of the United States, and President of the Senate.*

The President's objections were also again read: And after debate, the question, "That the House, on reconsideration, do agree to pass the bill,"

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*Bank of the United States—Indian Treaties.*

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was taken in the mode prescribed by the Constitution of the United States, and determined in the negative—yeas 33, nays 55, as follows:

**YEAS**—Abijah Bigelow, Daniel Blaisdell, John C. Chamberlain, Epaphroditus Champion, John Davenport, jun., William Ely, James Emott, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Herman Knickerbacker, Joseph Lewis, junior, Robert Le Roy Livingston, William McKinley, William Milnor, Nicholas R. Moore, Jeremiah Morrow, Benjamin Pickman, jun., Timothy Pitkin, jun., John Porter, Elisha R. Potter, Daniel Sheffey, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, junior, William Anderson, William T. Barry, Adam Boyd, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Daniel Heister, James Holland, Jacob Hufty, Richard M. Johnson, John Love, Matthew Lyon, Aaron Lyle, Nathaniel Macon, Alexander McKim, Samuel L. Mitchell, Thomas Moore, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Joseph Pearson, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Uri Tracy, Charles Turner, junior, Robert Weakley, Robert Whitehill, and Robt. Wright.

And so the said bill was rejected; two-thirds of the House not agreeing to pass the same.

#### BANK OF THE UNITED STATES.

Mr. P. B. PORTER, from the committee to whom was referred, on the twenty-fifth ultimo, the memorial of the Stockholders of the Bank of the United States, made the following report, which was read:

"The committee to whom was referred the memorial of the Stockholders of the Bank of the United States, report:

"That they have carefully examined the various matters set forth in the said memorial, and attentively listened to the representations of the gentlemen who have appeared in behalf of the said petitioners. The object of the memorialists, is to obtain extension of their corporate powers beyond the period limited for the expiration of their charter, so as to enable them to prosecute for their debts, and to arrange, liquidate, and close the various concerns of the company.

"The committee are of opinion that a law of Congress, granting the powers prayed for, would facilitate the final adjustment of the affairs of the bank, although they do not think such a law indispensable to that object. But believing, as your committee do, that, in granting the original charter to the stockholders, Congress transcended the legitimate powers of the Constitution; the same objection now presents itself to the extension of any of their corporate capacities.

"If the committee had time to go into the investigation, and to present to the House the various reasons which have conduced to this opinion, it would be more than useless to divert its attention from the important concerns of the nation, at this late period of the ses-

sion, to a subject which, but a few days since, was so fully and elaborately discussed.

They therefore beg leave to introduce the following resolution:

"*Resolved*, That the prayer of the memorialists ought not to be granted."

The House agreed to meet to-morrow, (being Sunday.)

The House then adjourned to six o'clock this evening.

MARCH 2—6 o'clock p. m.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with sundry statements, prepared in obedience to the act to establish a Mint, and regulating the coins of the United States; which were read.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a statement of fines, penalties, and forfeitures, and of expenses attending prosecutions under the embargo and non-intercourse laws; which were read.

A bill from the Senate for the relief of Richard Tervin and others, being the same bill as that returned by the President, with the exception of the objectionable section respecting the church claim, was read three times, and passed.

#### INDIAN TREATIES.

The House went into Committee of the Whole on the bill making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage Indians.

Mr. WEAKLEY moved an amendment appropriating a sum of money for extinguishing the Indian title to certain lands in the State of Tennessee.—Motion lost, 47 to 35.

The Committee rose, and reported the bill.

Mr. WEAKLEY renewed his motion in the House in the following form: "that a sum not exceeding ten thousand dollars, be and is hereby appropriated for the purpose of defraying the expense of holding a treaty with the Chickasaw nation of Indians, for extinguishing claims to lands in the States of Tennessee and Kentucky."

The motion was supported by Messrs. BARRY, McKEE, and WEAKLEY; and opposed by Messrs. STURGES and KEY.

Mr. GARDENIER moved the previous question on the amendment, which was determined in the affirmative.

Mr. G. proceeded to debate.

The SPEAKER declared the decision of the House to be, that debate could not take place on the question now.

Mr. GARDENIER appealed from the Speaker's decision, which was affirmed—yeas 63, nays 36, as follows:

**YEAS**—Joseph Allen, Lemuel J. Alston, Willis Alston, junior, William Anderson, David Bard, William T. Barry, Burwell Bassett, Adam Boyd, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, James Cochran, William Crawford, Richard Cutts, Joseph Desha, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson,

Peterson Goodwyn, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, John Ross, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Thompson, Uri Tracy, Charles Turner, jun., Robert Weakley, Robert Whitehill, Robert Witherspoon, and Robert Wright.

**NAVS**—Abijah Bigelow, James Breckenridge, John Campbell, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, John Dawson, William Ely, Barent Gardener, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Matthew Lyon, William Milnor, Benjamin Pickman, jun., Timothy Pitkin, jr., Elisha R. Potter, Samuel Smith, Richard Stanford, John Stanley, Lewis B. Sturges, Jacob Swoope, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

Mr. WEAKLEY's amendment was then negatived—51 to 42.

An engrossed bill making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clarke, on the tenth of November, 1808, was read the third time.

*Resolved*, That the said bill do pass, and that the title be "An act making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clarke, on the tenth day of November, 1808, and for other purposes."

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in Maryland, to the State of Ohio." The bill was reported without an amendment; which was concurred in by the House, and the amendment ordered to be engrossed, and, together with the bill, be read the third time to-day.

#### VOLUNTEER CORPS.

The House resolved itself into a Committee of the Whole, on the bill from the Senate authorizing the President of the United States to accept the services of a corps of volunteers not exceeding 50,000 men.

Mr. ROOR said the provisions of it were impracticable, and could not be made to harmonize. By the first section the President was authorized to accept the service of volunteers who should associate themselves into companies, the officers of which were to be appointed in a manner prescribed by the States. From various companies must be selected a section to each to form one company of the volunteers, who could not be organized till the States should pass laws to carry

this bill into effect. He presumed there was no State in the Union which had at present passed laws for this amalgamation of companies, &c. Mr. R. pointed out what he deemed other incongruities in the bill. He said it contained valuable provisions without providing the means of carrying them into effect; and it was too late in the session to attempt to remodel the law. He therefore moved that the Committee rise.

Mr. DAWSON spoke of the present situation of the country as being critical. A great majority of the House had formerly agreed to provisions similar to those contained in this bill. If the House were to refuse now to pass it, they would leave the President destitute of means, &c., &c.

Mr. TALLMADGE coincided with Mr. ROOR as to the details of this bill, and was proceeding to debate the merits of the bill. The Chairman apprized him that on a motion for the Committee to rise, the merits could not be debated.

The question on the Committee's rising was determined in the affirmative, and they were refused leave to sit again.

The bill from the Senate, entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," was read the third time, and passed as amended.

#### DISTRICT JUDGES.

The order of the day being called for on the bill to increase the compensation of the Judges in the District of Columbia—

Mr. QUINCY moved that it be indefinitely postponed. The reason he assigned was, that the salaries of the Judges of the United States were a matter to be acted on generally, and not specially. If the salaries of the Judges in this District were raised, so ought those in other districts, and not in this alone.

Mr. MILNOR spoke against postponement. It was no reason, because other Judges did not receive enough compensation, that a sufficiency should be withheld from the Judges of this District. It was impossible, he said, for a man to maintain himself decently for \$1,600 a year in the District; the business of the District was very extensive, employing the Judges a great proportion of their time.

Mr. KEY opposed the motion for postponement. He spoke of the good character and conduct of the Judges, the laboriousness of their duty, the courts being twenty weeks in the year in constant session, besides as much time nearly occupied in their chambers in the duties of their office.

Mr. ROSS was in favor of the postponement. Inadequate as the salary was represented, there was never any difficulty in procuring persons to fill the vacancies in case of resignation. If there was no difficulty in filling the offices, what moral obligation was there to increase the salaries?

Mr. LIVERMORE and Mr. ALSTON spoke in favor of indefinite postponement, and Mr. GARDNER against it.

The motion for indefinite postponement was negatived, ayes 30; and the House resolved itself into a Committee of the Whole on the bill.

MARCH, 1811.

*Extra Session.*

H. OF R.

An addition of \$200 was made to the salary of the Chief Judge, and \$400 to that of the Associate Judges.

Mr. QUINCY moved to amend the bill by inserting; "And that the District Judges of the United States, in each and every district of the United States, shall each and every one receive the sum of \$400 yearly, in addition to the compensation heretofore allowed by law."

The motion was lost, ayes 12.

The Committee rose and reported the bill as amended.

Mr. QUINCY renewed the motion he had unsuccessfully made in Committee; which was again negatived.

The bill was ordered to a third reading, 54 to 20, and was subsequently read a third time and passed.

Adjourned until to-morrow morning, ten o'clock.

#### SUNDAY, March 3.

The House resolved itself into a Committee of the Whole on the bill to remit certain fines, penalties, and forfeitures. The bill was reported with amendments thereto; which were read, and concurred in by the House, and the bill ordered to be engrossed, and read the third time to-day.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning invalid pensioners," with an amendment, to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill allowing additional compensation to the Postmaster General. The bill was reported with an amendment thereto; which was concurred in by the House, and the bill ordered to be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill for the relief of Charles Minifie. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill for the relief of Lieutenant Colonel William Dent Beall. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-day.

An engrossed bill allowing additional compensation to the Postmaster General was read the third time, and passed.

On motion of Mr. GARLAND, the several orders of the day, except the bill providing for the more effectual accountability of persons intrusted with public moneys, the bills from the Senate, and the engrossed bills, were postponed indefinitely.

The House resolved itself into a Committee of the Whole on the bill providing for the more effectual accountability of persons intrusted with public moneys; and, after some time spent therein, the Committee rose and reported progress.

An engrossed bill to remit certain fines, forfeitures, and penalties, was read the third time, and passed.

An engrossed bill for the relief of Charles Minifie was read the third time, and passed.

An engrossed bill for the relief of Lieutenant Colonel William Dent Beall was read the third time, and passed.

A message from the Senate informed the House that the Senate have appointed a committee on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the President of the United States, and inform him of the proposed recess of Congress.

On motion of Mr. RINGGOLD,

*Resolved*, That the Clerk of this House be authorized to pay, out of the contingent fund of the House, to James Claxton, the sum of one hundred dollars for his services during this session; and to Elextius Spalding, John Phillips, George Cooper, Richard Stewart, George N. Thomas, and Michael Sanford, the sum of fifty dollars each, in addition to their usual compensations.

On motion,

*Ordered*, That the several bills from the Senate, entitled "An act making further provision for the Corps of Engineers;" "an act concerning the communication by water along the northern confines of the United States, and for other purposes;" "an act authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company," be severally postponed indefinitely.

The House proceeded to consider the resolution of the Senate appointing a joint committee to inform the President of the proposed recess of Congress; and the same was concurred in by the House; and Messrs. GARLAND and ANDERSON were appointed the committee on the part of this House.

The SPEAKER presented to the House a petition of the mechanics and manufacturers, in Mason county, in the State of Kentucky, praying that Congress may take the necessary steps to encourage and protect the various manufacturing establishments within the United States.—Laid on the table.

#### EXTRA SESSION

Mr. MONTGOMERY, after adverting to the uncertainty of the present state of our foreign affairs, and the temporary nature of the provisions existing in relation to them, offered the following resolution for consideration:

*Resolved*, That a committee be appointed to inquire into the expediency of fixing by law an earlier day for the meeting of Congress than the 1st Monday in December next, with leave to report by bill or otherwise.

Mr. POTTER opposed it on the ground that it was impossible for Congress to foresee a certain necessity for their meeting. If it should occur, the President was invested with the power to convoke Congress at his discretion.

Mr. LOVE was also opposed to the resolution even for inquiry. He could see no pressing occasion for an extra session; and the convening of Congress would be productive of great expense, and of great personal inconvenience to the members; and, although he himself should not be a

H. of R.

*Indiana Territory.*

MARCH, 1811.

member of the next Congress, he felt for those who would.

Mr. LIVERMORE was opposed to the resolution. He said he could not see why honorable gentlemen were so anxious for an extra session. Had they passed some act the operation of which they were afraid of; and did they therefore wish to be here? If so, they had better save themselves the trouble by immediately repealing the act. The President already had the power to call Congress; and he hoped gentlemen did not wish to take away from him the responsibility of convening them or not, as he should think proper.

Mr. TROUP was in favor of the resolution. It was true that an extra session would be attended with great personal inconvenience to himself; but, however great, he was willing to incur it to avoid a very great national evil. He was fully persuaded, considering the present state of our foreign relations, that there ought to be a session of Congress before the period fixed by the Constitution for the annual meeting of Congress.

The question was taken on the passage of Mr. MONTGOMERY's resolution.

For the resolution 29; against it 50.

#### INDIANA TERRITORY.

The bill from the Senate for the extension of suffrage in the Indiana territory, was taken up.

The first section being under consideration—

Mr. BIBB said it contained a principle on which he could not consent to act. He was sensible of the inconveniences under which the people of the Territory labor; that they are deprived of many rights, but the same deprivation of rights exists in all the Territories. At present it was penal to settle on the public lands. By the operation of this section, persons so settling contrary to law were permitted to vote—a premium was thus given for violations of the law. That objection was sufficient, if there was no other.

Mr. JENNINGS said, that the section was predicated upon a joint resolution of the Legislature of the Territory he had the honor to represent, and it was the request therefore of the freeholders only, who must be considered as having acted deliberately and from disinterested motives. He was loth to detain the Committee, when there were important subjects to be acted upon, and that too at so late a period of the session. He considered the principle contained in the first section of the bill to be undeniably correct. Mr. J. said that the citizens of the Territory were nearly all emigrants from the States, that they took with them all the ideas and feelings with respect to their liberty and rights with which they were impressed when citizens of the States from whence they respectively emigrated; and, that he could not believe that they were less qualified to exercise their rights in a proper manner, since they became subject to a Territorial Government, than when they were citizens of any of the States.

Other gentlemen expressed their opinions on the subject.

Mr. BIBB moved to amend the section by adding the following: "except such persons shall

settle thereon contrary to law, and continue to reside thereon without permission of the United States."

Mr. JENNINGS observed that, by a law of the United States, many of those who were settled upon the public lands had obtained permission from the registers of the land office in which they respectively resided, and that it would be difficult to distinguish who were, or who were not settlers on the public lands contrary to law. It would, therefore, be extremely hard to deprive a great number of the citizens of the right which they were anxious to obtain, merely for the purpose of preventing a few, whom the gentleman from Georgia conceived to be illegal settlers upon the public lands, from voting.

Mr. RHEA of Tennessee opposed the amendment. He said that every one liable to militia duty ought to vote. Those persons performed militia duty, and were, in his opinion, entitled to vote.

The amendment was lost.

Mr. JENNINGS said that he had introduced the fourth section in the bill, from ideas he entertained that every man who acted as a legislator ought to stand upon independent and disinterested ground. That the clause of the section, which went to disqualify any person holding an office of profit under the Governor (justices of the peace, &c., excepted) from being eligible to the office of a member of the Legislative Council, or House of Representatives, or as a Delegate to the Congress of the United States for said Territory, until such office should be resigned, was intended to prevent the bartering of office for the purpose of inducing support to any candidate, who, at the time of being a candidate, should hold any office of profit except such as are excepted in this bill. Such a disqualification, so far as it goes, will have an equal operation upon every citizen of the Territory, while it would lead to pure and disinterested legislation, and operate as a barrier against any improper bias or encroachment upon the elective franchise. But, he said, a kind of silent legislation had been resorted to, in order to impress upon the minds of the members of this House that he was legislating to disqualify his competitor, if, indeed, he had but one. This was a secret mode of impeaching the motives of a legislator. He was not in the habit of impeaching the motives of any member, nor did he wish the motives by which he was actuated to be misrepresented. But, any person could qualify himself as a legislator by resigning an office of profit, which, Mr. J. conceived, he should, when he became a candidate to represent the people. He was not tenacious, however, for the principle contained in this section, if it would, in any measure, prevent the passage of the first section of the bill. He, therefore, moved that the section be stricken out.

Mr. HURTY opposed the motion to strike out. He could see nothing improper in the section, and hoped the motion would not be agreed to.

The motion was negatived, and the bill was then passed.



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Adjournment.

H. OF R.

*Evening Sitting.*

The bills from the Senate were called up.

The bill authorizing the President to accept the services of a corps of volunteers, not exceeding fifty thousand men, was mentioned.

Mr. DAWSON hoped the House would take up the bill. They had determined there should not be an extra session, and it was incumbent on them to do something to provide for defence.

Mr. LYON said he had frequently voted for such bills when there was no prospect of war; and now, when we were going into war, and giving the provocation ourselves, he was of opinion it ought to be passed.

The bill was indefinitely postponed.

The bill for laying out a certain road in pursuance of the Treaty of Brownstown was next called up.

Mr. GOLD spoke in favor of considering it, and the bill was indefinitely postponed.

The bill for the relief of Thomas Campbell was next in order.

Mr. MILNOR and Mr. MONTGOMERY spoke in favor of taking it up.

The motion to postpone the bill indefinitely was negatived.

The bill authorizing the payment of certain certificates and pensions came next upon the tapis.

Mr. WHITMAN and Mr. JOHNSON spoke in favor of it.

The votes were, for postponement, 39; against it, 39.

Another count being called, there were, for postponement, 33; against it, 38.

Another count being called—for postponement 38; against it, 38.

The SPEAKER decided the question in the affirmative.

The House resolved itself into a Committee of

the Whole on the bill for the relief of Thomas Campbell. Messrs. MILNOR, FINDLEY, and PICKMAN, supported, and Mr. ROOT opposed it.

A confidential message from the Senate caused the Committee to rise before the bill was gone through with, and the discussion of it was not resumed.

On motion of Mr. SMILE,

*Resolved*, That the thanks of this House be presented to JOSEPH B. VARNUM, in testimony of their approbation of his conduct in the discharge of the arduous and important duties assigned to him while in the Chair.

The SPEAKER then made his acknowledgments to the House in the following words:

*Gentlemen of the House of Representatives:*

I acknowledge, with grateful sensibility, the aid you have afforded me in the discharge of the duties of Speaker. Your approbation of my conduct in the important office you have been pleased to assign me, affords me very great consolation; and permit me to assure you, gentlemen, that you have my most ardent wishes for your individual prosperity and happiness.

Mr. BURWELL offered a resolution requiring the proper officers to cause to be laid before Congress, at their next session, a statement of all persons who receive money from the public Treasury, and the amounts they receive respectively.

Mr. STANLEY gave his hearty support to the motion, and Mr. ALSTON and Mr. EPPES suggested an amendment of it.

At this moment, Mr. GARLAND, from the committee appointed for the purpose, reported that they had waited on the President and informed him that they proposed to adjourn, and had received for answer that he had no further communication to make.

A message was received from the Senate, and reciprocated, that they were about to adjourn; a motion was then made to adjourn, and carried.

# SUPPLEMENTAL JOURNAL

OF SUCH PROCEEDINGS OF THE THIRD SESSION OF THE ELEVENTH CONGRESS, AS, DURING THE TIME THEY WERE DEPENDING, WERE ORDERED TO BE KEPT SECRET, AND RESPECTING WHICH THE INJUNCTION OF SECRECY WAS AFTERWARDS REMOVED BY ORDER OF THE HOUSE.

THURSDAY, January 3, 1811.

A confidential Message was received from the President of the United States; when the House was cleared of all persons except the members and the Clerk, and the said Message was read, and referred to a select committee, composed of Mr. MONTGOMERY, Mr. CUTTS, Mr. W. ALSTON, Mr. P. B. PORTER, Mr. GRAY, Mr. HAVEN, Mr. HUNTINGTON, Mr. MILLER, and Mr. BARRY, to consider and report thereon.—[See Appendix.]

SATURDAY, January 5.

The House being cleared of all persons except the members and Clerk, on a motion made, and leave given by the House, Mr. MONTGOMERY, from the committee appointed, on the third instant, on the confidential Message of the President of the United States, presented a bill authorizing the President of the United States to occupy the territory therein mentioned, and for other purposes; which was read the first and second time.

A motion was then made by Mr. BURWELL, that it be the order for Monday next; and the question being taken thereon, it was resolved in the affirmative—yeas 80, nays 37, as follows:

YEAS—Joseph Allen, Lemuel J. Alston, Ezekiel Bacon, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Robert Brown, William A. Burwell, William Butler, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, William Crawford, Richard Cutts, John Davenport, jr., John Dawson, Joseph Desha, William Ely, James Emott, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, William Milnor, Samuel L. Mitchell, Jeremiah Morrow, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., John Porter, Elisha R. Potter, Josiah Quincy, John Rhea of Pennsylvania, Matthias Richards, Thomas Sammons, John A. Scudder, Adam Sey-

bert, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

NAYS—William Anderson, David Bard, Joseph Calhoun, Matthew Clay, James Cochran, Jonathan Fisk, David S. Garland, Thomas Gholson, Edwin Gray, James Holland, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Thomas Newton, John Nicholson, Peter B. Porter, John Rhea of Tennessee, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Ebenezer Seaver, John Smilie, Uri Tracy, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherpoon, and Robert Wright.

Mr. MONTGOMERY, from the same committee, also reported a joint resolution, which is in the following words, to wit:

Taking into view the present state of the world, the peculiar situation of Spain, and of her American Provinces; the acknowledged claim of the United States on that country, for indemnifications of great magnitude, and the intimate relation of the territory eastward of the river Perdido, adjoining the said States, to their security, and tranquillity; Therefore,

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States cannot see, with indifference, any part of the Spanish Provinces adjoining the said States eastward of the river Perdido, pass from the hands of Spain into those of any other foreign Power.

Which was received and read the first time; and, on motion, the said resolution was read the second time.

A motion was made by Mr. STANLEY, that it be referred to the Committee of the whole House to whom was referred, this day, the bill authorizing the President of the United States to occupy the territory therein mentioned, and for other purposes; and the question being taken thereon, it was determined in the negative.

A motion was then made by Mr. W. ALSTON, that it be referred to a Committee of the

*Supplemental Journal.*

Whole, to-day; and the question being taken thereon, it was resolved in the affirmative.

The House resolved itself into a Committee of the whole House on the said resolution; and, after some time spent therein, the Committee rose reported progress and had leave to sit again.

—

MONDAY, January 7.

The House being cleared of all persons except the members and the Clerk, the House resolved itself into a Committee of the Whole on the joint resolution reported by the select committee appointed on the confidential Message of the President of the United States of the third instant; and, after some time spent therein, the Committee rose and reported an amendment thereto; which was read: and on the question that the House do now concur in the report of the Committee of the whole House, a motion was made by Mr. QUINCY, that the said report and resolution do lie on the table; and the question being taken thereon, it was determined in the negative.

A motion was then made by Mr. STANFORD, to amend the resolution by striking out the preamble thereto, which is, as amended by the Committee of the whole House, in the following words, to wit: "Taking into view the present state of the world, the peculiar situation of Spain and of her American Provinces, and the intimate relation of the territory eastward of the river Perdido, adjoining the said States, to their security and tranquillity."

And debate arising thereon, an adjournment was called for, and carried.

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TUESDAY, January 8.

The House resumed the consideration of the unfinished business of yesterday, which was depending and undetermined at the time of adjournment. The question being again stated from the Chair on striking out the preamble to the resolution reported by the Committee of the whole House, a division of the same was called for; and the question being taken on striking out, it was determined in the negative—yeas 41, nays 65, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Martin Chittenden, James Emott, Jonathan Fisk, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Samuel L. Mitchell, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, John Smith, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Laban Wheaton, James Wilson, and Robert Wheaton.

NAYS—Lemuel J. Alston, William Anderson, Ezekiel Bacon, David Bard, William T. Barry,

Burwell Bassett, William W. Bibb, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, Nathaniel A. Haven, James Holland, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Gordon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Thompson, George M. Troup, Charles Turner, jr., Robert Whitehill, Richard Winn, and Robert Witherspoon.

The question then recurred on concurring in the amendment reported by the Committee of the whole House, proposing to strike out of the preamble the following: "the acknowledged claim of the United States on that country for indemnifications of great magnitude." And the question being taken thereon, it was resolved in the affirmative—yeas 89, nays 21, as follows:

YEAS—Joseph Allen, William Anderson, Ezekiel Bacon, William T. Barry, Burwell Bassett, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, William Butler, Joseph Calhoun, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., John Dawson, Joseph Desha, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Gideon Gardner, Thomas R. Gold, Nathaniel A. Haven, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Aaron Lyle, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Alexander McKim, William Milnor, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, Thomas Newton, Joseph Pearson, Timothy Pitkin, jun., John Porter, Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Matthias Richards, Samuel Ringgold, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Daniel Sheffey, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, James Wilson, Robert Witherspoon, and Robert Wright.

**NAYS**—Lemuel J. Alston, David Bard, Robert Brown, Matthew Clay, William Crawford, Barzillai Gannett, David S. Garland, Thomas Gholson, Edwin Gray, Daniel Heister, James Holland, John Love, William McKinley, Pleasant M. Miller, John Montgomery, Gurdon S. Mumford, John Rhea of Tennessee, John Roane, Dennis Smelt, Robert Whitehill, and Richard Winn.

Pending the question, "Shall the resolution be engrossed for a third reading?" a motion was made by Mr. QUINCY, to amend the resolution, by striking out the words "with indifference," for the purpose of inserting the words "without serious inquietude;" and the question being taken thereon, it was determined in the negative.

A motion was made by Mr. BACON, to amend the preamble to the said resolution, by striking out the word "said," for the purpose of inserting the word "United;" and the question being taken thereon, it was resolved in the affirmative.

A motion was made by Mr. WRIGHT, to amend the resolution, by adding the following to the end thereof:

*Resolved*, That the President be requested to make such arrangements for the temporary possession of any part of Florida east of the Perdido, with the Spanish authorities, that he may think necessary for that purpose.

And the question being taken thereon, it was determined in the negative.

A motion was then made by Mr. STANFORD, to amend the resolution, by adding the following words to the end thereof: "And that the President of the United States, in pursuance of arrangements which may be desired by the Spanish authorities, be authorized to take temporary possession of any part or parts of the said Territory."

A question of order being made, whether the motion of the gentleman from North Carolina, Mr. STANFORD, was in order, as it apparently contained the principles embraced by the amendment proposed by the gentleman from Maryland, Mr. WRIGHT, the Speaker decided that it was not in order.

A motion was then made by Mr. MACON, that the said resolution do lie on the table; and the question being taken thereon, it was determined in the negative.

The question then recurred on the engrossing the resolution for a third reading; and the same being taken, it was resolved in the affirmative—yeas 74, nays 47, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, William Helms, Jas. Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, Wil-

liam McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Rich<sup>d</sup> Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Jonathan Fisk, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, William Milnor, Samuel L. Mitchell, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

A motion was then made by Mr. PITKIN, that the further consideration of the resolution be postponed until to-morrow; and the question being taken thereon, it was determined in the negative—yeas 46, nays 68, as follows:

**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Jonathan Fisk, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Smith, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai

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Gannett, Gideon Gardner, David S. Garland, Thomas. Gholson, William Helms, James Holland Richard M. Johnson, Thomas Kenan, William Kennedy, Samuel McKee, Alexander, McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Robert Witherspoon, and Robert Wright.

The question was then taken that the said resolution do pass, as amended; and resolved in the affirmative—yeas 70, nays 42, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, William Helms, James Holland. Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, Samuel McKee, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, Geo. Smith, John Smith, Samuel Smith, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Jonathan Fisk, Chas. Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Kilian K. Van Rensselaer, Laban Wheaton, and James Wilson.

A motion was made by Mr. MONTGOMERY,

that a committee be appointed to carry the said resolution to the Senate; and the question being taken thereon, it was resolved in the affirmative.

Mr. MONTGOMERY and Mr. CUTTS were appointed a committee, in pursuance of the said resolution.

THURSDAY, January 10.

The House being cleared of all persons except the members and the Clerk, a confidential message was received from the Senate, by their committee, as follows:

*Mr. Speaker:* The Senate have passed a bill entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" in which bill they desire the concurrence of this House.

The House then proceeded to the consideration of the bill from the Senate; which was read twice, and committed to a Committee of the Whole this day.

The House then resolved itself into a Committee of the Whole on the said bill; and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. BASSETT reported that the Committee of the Whole have had under consideration a bill from the Senate to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, and have agreed to the same, without amendment.

The House proceeded to the consideration of the report of the Committee of the Whole; and debate arising, an adjournment was called for, and carried.

FRIDAY, January 11.

The House resumed the consideration of the report of the Committee of the Whole, made yesterday; and on the question that the House do now concur in the report of the Committee of the Whole—

A motion was made by Mr. TROUP to amend the bill by striking out all the first section thereof, after the enacting clause, for the purpose of inserting the following:

"That the President of the United States be, and he is hereby, authorized to take possession and occupy all or any part of the territory lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, in case arrangement has been or shall be made with the local authority of the said Territory, at the desire of the said authority, for delivering up the possession of the same, or any part thereof, to the United States."

A division of the question was called for by Mr. RHEA; and the question being taken on striking out, it was determined in the negative—yeas 54, nays 66, as follows:

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**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, John Campbell, J. C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, James Cochran, John Davenport, jr., William Ely, Jas. Emott, Jonathan Fisk, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Thomas Newbold, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, John Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Walter Jones, Thos. Kenan, William Kennedy, John Love, Aaron Lyle, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Nicholson, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thos. Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Dennis Smelt, Geo. Smith, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

Consequently, the said motion was rejected.

A motion was made by Mr. BACON, to amend the bill by striking out the third section thereof, for the purpose of inserting the following:

*"And be it further enacted, That after the possession authorized by this act shall have been taken by the President of the United States, the inhabitants thereof shall continue under the jurisdiction of the local government heretofore established, or which may hereafter be adopted therein, and the civil and military authorities there acting, shall be confirmed and continued in the exercise of their respective functions, so far as may be necessary to protect the people thereof in the enjoyment of their liberty, property, and religion, until other provisions shall be made by Congress therefor."*

A division of the question was called for by Mr. MONTGOMERY; and the question being taken

on striking out, it was determined in the negative—yeas 59, nays 66, as follows:

**YEAS**—Joseph Allen, Ezekiel Bacon, Burwell Bassett, Wm. W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, John W. Eppes, Jonathan Fisk, Chas. Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Walter Jones, Thomas Kenan, Herman Knickerbacker, Joseph Lewis, jr., Robt. Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Samuel L. Mitchell, Jeremiah Morrow, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Jas. Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, James Wilson, Robert Wright.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pa., John Rhea of Tennessee, Matthias Richards, Saml. Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

Consequently, the said motion was lost.

A motion was made by Mr. TROUP to amend the bill, by striking out after the word "States," in the seventh line of the first section, the following words: "Or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government; and he may, for the purpose of taking possession and occupying the territory aforesaid, and in order to maintain therein the authority of the United States, employ any part of the Army and Navy of the United States, which he may deem necessary;" for the purpose of inserting the following:

*"Or in the event of an attempted occupation of the*

said territory by any foreign Power other than Spain, the President of the United States may, for the purpose, and sole purpose, of repelling such occupation, employ any part of the Army and Navy of the United States, which he may deem necessary, causing no molestation or injury of any kind to the inhabitants of the said territory, save what may be absolutely necessary to the repulsion of such occupation."

And the question being taken thereon, it was determined in the negative—yeas 54, nays 68, as follows:

**YEAS**—Joseph Allen, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William Butler, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Jas. Cochran, John Davenport, jr., William Ely, James Emott, Jonathan Fisk, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Samuel L. Mitchell, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Jas. Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, Geo. Smith, John Smith, Uri Tracy, Charles Turner, junior, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, Robert Wright.

A motion was made by Mr. MILNOR to amend the bill by striking out the following words in the seventh line thereof, to wit: "Or, in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government."

And, debate arising thereon, an adjournment was called for, and carried.

SATURDAY, January 12.

A motion was made by Mr. SHEFFEY that the House do come to the following resolution:

"Resolved, That the further proceedings on the bill from the Senate, entitled 'An act to enable the President of the United States, under certain contingencies, to take possession of the territory east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes,' be had with open doors, and that the injunction of secrecy be taken off in relation thereto."

On which a question was made, whether the said motion was in order; during a debate on the question of order, twelve o'clock arrived, when the order of the day on the unfinished business was called for; and the Speaker decided that, as twelve o'clock had arrived, and the order of the day had been called for, the call for the order of the day had the preference, and superseded the motion of the member from Virginia, (Mr. SHEFFEY;) from which decision an appeal was taken; and, on the question, "Is the decision of the Chair correct?" it was resolved in the affirmative—yeas 58, nays 51, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, Joseph Desha, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, William Helms, Jas. Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Joseph Allen, William W. Bibb, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, junior, Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Richard Stan-

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ford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

The question then recurred on the motion of Mr. MILNOR, which was pending and undetermined at the time of adjournment, to amend the bill by striking out the following words in the seventh line of the first section thereof, to wit: "or, in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government." And, the question being taken thereon, it was determined in the negative—yeas 52, nays 66, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William A. Burwell, John Campbell, Martin Chittenden, James Cochran, John Davenport, junior, William Ely, James Emott, Jonathan Fisk, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, junior, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Samuel L. Mitchill, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, junior, Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, James Wilson, and Robert Wright.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, William Helms, Jas. Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, Erastus Root, Ebenezer Sage, Thomas Sammons, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

A motion was made by Mr. STURGES to amend the bill by striking out the word "or," for the purpose of inserting the word *and* in the seventh line and first section of the aforesaid bill; and,

the question being taken thereon, it was determined in the negative—yeas 46, nays 78, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, junior, William Ely, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Jas. Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Jas. Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, William Helms, Jas. Holland, Jacob Hufty, Richard M. Johnson, Thos. Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, Geo. Smith, John Smith, Henry Southard, Uri Tracy, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

A motion was made by Mr. SHEFFEY to amend the bill by adding a new section thereto, in the words following, to wit:

"*And be it further enacted*, That the President of the United States be, and he is hereby, authorized to restore the possession which may be acquired by virtue of this act, of the said territory, to the Spanish Government, in consequence of arrangements to be made between him and that Government, whenever it shall appear to him that the occupancy thereof, by any other foreign Power, is no longer to be apprehended, and the Spanish authority therein shall be sufficient to maintain internal peace and tranquillity: *Provided*, That the power hereby granted shall not be construed to authorize the President to restore such possession in the event of the present existing authority in Spain



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being subverted, and the Government of that country, assumed and exercised by any other foreign Prince or State; or, in the event of the Spanish American Colonies becoming independent of the parent State, or subjected to the dominion of any other foreign Power."

And the question being taken thereon, it was determined in the negative—yeas 59, nays 61, as follows:

**YEAS**—Joseph Allen, Ezekiel Bacon, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, John W. Eppes, Meshack Franklin, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jeremiah Morrow, Jonathan O. Moseley, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Adam Seybert, Daniel Sheffey, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Robert Wright.

**NAYS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Joseph Desha, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, James Wilson, Richard Winn, and Robert Whitespoon.

A motion was made by Mr. HUBBARD to amend the bill in the first section and seventh line, after the word Government, by inserting the following words: "other than that of Spain."

And the question being taken thereon, it was determined in the negative—yeas 47, nays 78, as follows:

**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, J.

Davenport, jr., William Ely, James Emott, C. Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, S. Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robt. Witherpoon, and Robert Wright.

A confidential message was received from the Senate, by Mr. CLAY and Mr. PICKERING, their committee, as follows:

*Mr. Speaker:* We are instructed by the Senate to inform the House of Representatives, that the Senate have had under consideration a resolution of this House, of the eighth instant, confidentially communicated to the Senate, by their committee, and have agreed to the same with an amendment; in which amendment they are instructed to ask the concurrence of this House.

A motion was made by Mr. PITKIN to amend the bill, by adding the following words to the end of the first section thereof:

"It is, however, understood, and hereby is declared, that the territory which may be occupied by virtue of this act, is hereafter to be restored to the lawful Government of Spain, administered by the representatives of the people and the Executive authority of that country, according to the ancient forms of their con-

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stitution; or, in the event of that Government being extinguished, then said territory, at the request of the inhabitants thereof, is to be restored to the authorities constituted by such Government as shall be established in the Spanish dominions in America, by and with the consent of the people of said Spanish dominions, whenever apprehensions of its being occupied by any foreign Government shall cease; and it shall be the duty of the President of the United States, whenever said territory shall be restored, to make the necessary arrangements for that purpose."

And the question being taken thereon, it was determined in the negative—yeas 41, nays 76, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emmott, Chas. Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Ebenezer Huntington, Richard Jackson, jr., Robt. Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Daniel Sheffey, Richard Stanford, John Stanley, Jas. Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Nicholas Van Dyke, Archibald Van Horn, Laban Wheaton, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

A motion was made by Mr. STANFORD, to amend the bill by adding the following to the end of the last section thereof:

"And be it further enacted, That the powers, by the several sections of this act vested in the President of the United States, shall cease at the expiration of the session of Congress next ensuing the present, unless

they shall be by some future law continued in force for a longer time."

And the question being taken thereon, it was determined in the negative—yeas 41, nays 75, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emmott, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, William Milnor, Jonathan O. Moseley, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, James Breckenridge, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, Joseph Desha, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, John Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

On the question, "Shall the bill have a third reading?"

A motion was made by Mr. STURGES, that the House do now adjourn; and the question being taken thereon, it was determined in the negative—yeas 29, nays 76, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William Chamberlin, Epaphroditus Champion, John Davenport, jr., William Ely, Charles Goldsborough, Thomas R. Gold, William Hale, Jonathan H. Hubbard, Ebenezer Huntington, Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, William Milnor, Jonathan O. Moseley, Joseph Pearson, Timothy Pitkin, junior, Elisha R. Potter, Josiah Quincy, Richard Stanford, James Stephenson,

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Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Nicholas Van Dyke, and A. Van Horn.

**YAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, William T. Barry, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John C. Chamberlain, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchill, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, Uri Tracy, George M. Troup, Charles Turner, jun., Killian K. Van Rensselaer, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

The question recurring on the third reading of the bill, a motion was made by Mr. BIGELOW, that the House do now adjourn:

And the question being taken thereon, it was determined in the negative—yeas 37, nays 76, as follows:

**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, William Chamberlain, William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis jr., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee,

Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchill, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, Uri Tracy, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

And on the question, "Shall the bill have a third reading?" it was resolved in the affirmative—yeas 77, nays 45, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Thomas Kenan, Pleasant M. Miller, Samuel L. Mitchill, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracey, George M. Troup, Charles Turner junior, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

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A motion was made by Mr. QUINCY, that the third reading of the bill be the order of the day for Monday next; and the question being taken thereon, it was determined in the negative—yeas 42, nays 75, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, John Dawson, Joseph Desha, John W. Eppes, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, junior, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

A motion was then made by Mr. QUINCY, that the doors be now opened, and that the injunction of secrecy imposed on the proceedings which have been transacted with closed doors during the present session, be removed; and the question being taken thereon, it was determined in the negative—yeas 44, nays 79, as follows:

YEAS—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hub-

bard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Josiah Quincy, Daniel Sheffey, Samuel Smith, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, Richard Stanford, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

A motion was made by Mr. GHOLSON that the third reading of the bill be the order for this day; and the question being taken thereon, it was resolved in the affirmative.

The bill was accordingly read a third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 76, nays 44, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Thomas Moore,

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Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**YAYS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

A motion was made by Mr. MONTGOMERY that the House do now proceed to the consideration of the amendment of the Senate made to the confidential resolution of the eighth instant; and the question being taken thereon, it was resolved in the affirmative—yeas 77, nays 33, as follows:

**YAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun.,

Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Daniel Heister, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Jonathan O. Moseley, Joseph Pearson, Elisha R. Potter, Josiah Quincy, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

A motion was then made by Mr. MILNOR that the House do now adjourn: and the question being taken, it was determined in the negative.

The House then resumed the consideration of the amendment of the Senate to the aforesaid resolution.

A motion was made by Mr. MONTGOMERY that the House do concur in the amendment of the Senate to the said resolution.

A motion was made by Mr. GOLDSBOROUGH that the amendment aforesaid be referred to a Committee of the whole House; and the question being taken, it was determined in the negative—yeas 30, nays 78, as follows:

**YAYS**—Joseph Allen, Abijah Bigelow, James Breckenridge, Martin Chittenden, William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Jonathan O. Moseley, Joseph Pearson, Elisha R. Potter, Josiah Quincy, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

**NAYS**—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver,

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Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

A motion was made by Mr. MOSELEY that the House do now adjourn, and the question being taken, it was determined in the negative.

The question again recurred on the concurrence of this House in the amendment of the Senate; and the question being taken thereon, it was resolved in the affirmative—yeas 78, nays 21, as follows:

Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Edwin Gray, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

**NAYS**—Abijah Bigelow, James Breckenridge, Martin Chittenden, Charles Goldsborough, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Joseph Lewis, jun., Robert Le Roy Livingston, Jonathan O. Moseley, Joseph Pearson, Elisha R. Potter, Josiah Quincy, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Nicholas Van Dyke, and Laban Wheaton.

A motion was made by Mr. MONTGOMERY that a committee be appointed to wait on the Senate, and inform them that the House of Representatives have passed the bill from the Senate, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" and, also, have concurred in the amendment of the Senate made to the confidential resolution of the eighth instant; and a committee was appointed, consisting of Mr. MONTGOMERY and Mr. MILLER.

MONDAY, January 14.

The House being cleared of all persons, except the members and the Clerk, Mr. GARLAND, from the Joint Committee for Enrolled Bills, reported that the committee had examined an enrolled bill, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" and that they had also examined an enrolled resolve which passed both Houses of Congress on the twelfth instant; and had found the same to be truly enrolled: Whereupon, Mr. Speaker signed the said enrolled bill and resolve.

*Ordered*, That Mr. MONTGOMERY and Mr. MILLER be appointed a committee to acquaint the Senate therewith.

THURSDAY, January 17.

The House being cleared of all persons, except the members and Clerk, Mr. ANDERSON, from the Joint Committee for Enrolled Bills, reported that the committee did, on the fifteenth instant, present to the President of the United States, for his approbation, an enrolled bill, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" and an enrolled resolve passed on the twelfth instant.

A Message was received from the President of the United States, notifying that the President did, this day, approve and sign the abovementioned enrolled resolve.

FRIDAY, January 17.

The House being cleared of all persons but the members and the Clerk, the following resolution was submitted by Mr. SHEFFEY, for consideration:

*"Resolved*, That the injunction of secrecy imposed on the proceedings which have been transacted with closed doors, during the present session, be removed, and that the secret journal of such proceedings be published."

And on the question, Will the House now consider the said resolution? it was determined in the negative—yeas 45, nays 73, as follows:

**YEAS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Martin Chittenden, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Moseley, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Josiah Quincy, Daniel Sheffey, John

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Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

**YAYS**—Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Alexander McKim, William McKinley, Pleasant M. Miller, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

On motion of Mr. MONTGOMERY,

*Resolved*, That a committee be appointed to inform the Senate that the President of the United States did, yesterday, approve and sign an enrolled resolve, which originated in this House.

*Ordered*, That Mr. MONTGOMERY and Mr. GRAY be appointed the said committee.

SATURDAY, January 19.

The House being cleared of all persons, but the members and Clerk, Mr. MONTGOMERY, from the committee appointed, yesterday, to inform the Senate that the President of the United States did, on the seventeenth instant, approve and sign an enrolled resolve, which originated in this House, reported that the committee had performed that duty.

A message from the Senate, by Mr. OTIS, their Secretary:

*Mr. Speaker*: I am directed to inform this House that the President of the United States did, on the seventeenth instant, approve and sign an enrolled bill, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes."

SUNDAY, March 3.

The House being cleared of all persons, but the members and the Clerk, a message was received

from the Senate, by Mr. TURNER, and Mr. SMITH, of Maryland, two members of that body, notifying the House that the Senate had this day passed a resolution in the form of a joint resolution of the two Houses of Congress, in the words following, to wit:

*"Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the act passed during the present session of Congress, entitled 'An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes,' and the declaration accompanying the same, be not printed or published unless directed by the President of the United States, any law or usage to the contrary notwithstanding."

To which they desire the concurrence of this House.

The said resolution was read the first and second time.

A motion was made by Mr. QUINCY, that the said resolution be committed to a Committee of the whole House; and the question being taken thereon, it was determined in the negative.

A motion was made by Mr. BIBB, to amend the said resolution by striking out the first word, "resolved," and insert, in lieu thereof, the words "be it enacted;" and the question being taken thereon, it was resolved in the affirmative.

Another motion was made by Mr. BIBB, further to amend the said resolution, by inserting, after the word "that," in the third line, the words "this act and;" and the question being taken thereon, it was resolved in the affirmative.

A motion was made by Mr. JOHNSON, further to amend the said resolution, by inserting, after the word "published," in the tenth line, the following: "until the end of the next session of Congress;" and the question thereon being taken by yeas and nays, and a quorum, consisting of a majority of the whole House, not being present, the question was not determined.

The yeas and nays, as demanded by one-fifth of the members present, are as follows:

**YEAS**—Lemuel J. Alston, David Bard, William T. Barry, William W. Bibb, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, John Dawson, John W. Eppes, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, James Holland, Jacob Hufty, Walter Jones, John Love, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, Erastus Root, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, John Smith, Henry Southard, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, Daniel Blaisdell, James Breckenridge, Charles Goldsbo-

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rough, William Hale, Jonathan H. Hubbard, Richard Jackson, jr., Joseph Lewis, jr., Edward St. Loe Livermore, William Milnor, Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Ross, John A. Scudder, Daniel Sheffey, John Stanley, Lewis B. Sturges, Samuel Taggart, Nicholas Van Dyke, Archibald Van Horn, and Ezekiel Whitman.

The question was again taken by yeas and nays, and resolved in the affirmative—yeas 48, nays 34, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, David Bard, William W. Bibb, Adam Boyd, William Butler, Joseph Calhoun, John Clopton, James Cochran, William Crawford, Richard Cutts, John Dawson, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Jacob Hufty, Walter Jones, William Kennedy, John Love, Alexander McKim, William McKinley, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, Samuel Smith, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, James Breckenridge, John C. Chamberlain, John Davenport, jr., William Ely, James Emott, Barent Gardenier, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Ebenezer Huntington, Richard Jackson, jr., Joseph Lewis, jr., Edward St. Loe Livermore, Nathaniel Macon, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Ross, Daniel Sheffey, John Stanley, James Stephenson, Lewis B. Sturges, Samuel Taggart, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

And the question being taken on the resolution as amended, it was resolved in the affirmative—yeas 52, nays 34, as follows:

**YEAS**—Lemuel J. Alston, Willis Alston, jr., William Anderson, David Bard, William W. Bibb, Adam Boyd, William Butler, Joseph Calhoun, John Clopton, James Cochran, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Barzillai Gannett, Gideon Gardner, David S. Garland, Thomas Gholson, Peterson Goodwyn, Jacob Hufty, Walter Jones, William Kennedy, John Love, Alexander McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, Richard Stanford, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Wright.

**NAYS**—Joseph Allen, Abijah Bigelow, James Breckenridge, John Campbell, John C. Chamberlain, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jr., Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Nathaniel Macon, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Ross, Daniel Sheffey, Samuel Smith, John Stanley, James Stephenson, Lewis B. Sturges, Benjamin Tallmadge, Nicholas Van Dyke, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

*Ordered*, That Mr. MONTGOMERY and Mr. T. MOORE be appointed a committee to wait on the Senate, and inform them of the agreement of this House to their resolution, with amendments; in which amendment they desire the concurrence of the Senate.

A motion was made by Mr. SHEFFEY, that the House do come to the following resolution:

*Resolved*, That the injunction of secrecy, in relation to the proceedings had with closed doors, during the present session, be removed, and that the secret Journal be published:

And on the question that the House do agree to the said resolution, it was determined in the negative—yeas 40 nays 51, as follows:

**YEAS**—Joseph Allen, Lemuel J. Alston, Willis Alston, jun., Abijah Bigelow, James Breckenridge, John Campbell, John C. Chamberlain, James Cochran, John Davenport, jun., William Ely, James Emott, Barent Gardenier, David S. Garland, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jun., Herman Knickerbacker, Joseph Lewis, jun., Edward St. Loe Livermore, Matthew Lyon, William Milnor, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Richard Stanford, John Stanley, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

**NAYS**—William Anderson, William W. Bibb, Adam Boyd, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Jacob Hufty, Richard M. Johnson, Walter Jones, William Kennedy, John Love, Alexander McKim, William McKinley, Samuel L. Mitchell, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, John Nicholson, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Samuel Ringgold, Erastus Root, Ebenezer Sage, John A. Scudder, Ebenezer Seaver, Adam Seybert, Samuel Shaw, John Smilie, Samuel Smith, John Thompson, Uri Tracy, Charles Turner, jun., Robert Weakley, Robert Whitehill, and Robert Wright.



*Supplemental Journal.*

A motion was made by Mr. SHEFFEY that the House do come to the following resolution :

*Resolved*, That the Journal of the proceedings of this House on the resolution offered this day, to remove the injunction of secrecy in relation to the proceedings had with closed doors, during the present session, be published.

And on the question that the House do now proceed to the consideration of the said resolution, it was determined in the negative.

The doors were then opened ; and, after some time, closed again.

A confidential message was received from the Senate, by Mr. WORTHINGTON and Mr. BAYARD, two members of that body, notifying that the Senate had concurred in the amendments of the House of Representatives to their confidential resolution of this day.

Mr. GARLAND, from the Joint Committee for Enrolled Bills, reported that they had examined an enrolled bill, entitled "An act concerning 'An act to enable the President of the United States, under certain contingencies, to take possession of

the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" and the declaration accompanying the same, and had found the same to be truly enrolled: Whereupon, Mr. SPEAKER signed the said bill and the declaration accompanying the same.

*Ordered*, That Mr. MONTGOMERY and Mr. GARLAND be appointed a committee to acquaint the Senate therewith.

A message was received from the Senate, by Mr. CUTTS and Mr. CAMPBELL, two members of that body, notifying the House that the President of the United States had approved and signed a confidential bill, passed this day, entitled "An act concerning 'An act to enable the President of the United States, under certain contingencies, to take possession of the country lying East of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes," and the declaration accompanying the same.

*Ordered*, That the doors be now opened.

## APPENDIX

### TO THE HISTORY OF THE ELEVENTH CONGRESS.

[ THIRD SESSION. ]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

#### GREAT BRITAIN.

[Communicated to Congress, December 5, 1810; and January 12, and February 19, 1811.]

*To the Senate and House of Representatives of the United States :*

I transmit to Congress copies of a letter from the Minister Plenipotentiary of the United States at London, to the Secretary of State; and of another from the same to the British Secretary of State for Foreign Affairs.

JAMES MADISON.

FEBRUARY 12, 1811.

*To the House of Representatives of the United States :*

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 18th instant.

JAMES MADISON.

FEBRUARY 19, 1811.

[The following documents were communicated to Congress at the commencement of the third session of the eleventh Congress, and by Messages of the 12th January and 19th February, 1811.]

Extract—Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,  
January 20, 1810.

In my letter to you of the 11th of November, 1809, you were authorized to assure the British Government that the United States sincerely retained the desire, which they have constantly professed, to facilitate a friendly accommodation of all the existing differences between the two countries; and that nothing would be more agreeable to them, than to find the successor of Mr. Jackson invested with all the authorities necessary for the accomplishing of so desirable an event; and, moreover, that if the attainment of this object, through your agency, should be considered more expeditious or otherwise preferable, it would be a course entirely satisfactory to the United States.

I am now charged, by the President, to transmit to you the enclosed letter, authorizing you to re-

sume the negotiations with the British Government, under the full power that had been given severally and jointly to you and Mr. Monroe. And, in your discussions therein, you will be regulated by the instructions heretofore given to Mr. Monroe and yourself. It is, however, not intended that you should commence this negotiation until the requisite satisfaction shall have been made in the affair of the Chesapeake. And, in the adjustment of this case, you will be guided by the instructions which you have heretofore received from this Department in relation to it.

It is, moreover, desirable, that, preparatory to a treaty upon all the points of difference between the two countries, an arrangement should be made for the revocation of the Orders in Council. As it is uncertain what may be the ultimate measures of Congress, at the present session, it cannot be expected that the President can, at this time, state the precise condition to be annexed to a repeal of the Orders in Council. But, in general, you may assure the British Government of his cordial disposition to exercise any power with which he may be invested, to put an end to acts of Congress which would not be resorted to but for the Orders in Council, and, at the same time, of his determination to keep them in force against France, in case her decrees should not also be repealed.

[Enclosed in the foregoing letter.]

DEPARTMENT OF STATE,  
January 20, 1810.

SIR: The President, anxious to adjust the existing differences between the United States and Great Britain, and deeming it expedient to make another effort for that purpose, has given it in charge to me to instruct you to renew negotiations in London, under the commission dated the 12th of May, 1806, authorizing Mr. Monroe and yourself, severally as well as jointly "to treat with the British Government, relative to wrongs committed between the parties on the high seas or other waters, and for establishing the principles of navigation and commerce between them." I have the honor, &c. R. SMITH.

*Relations with Great Britain.*

Mr. Pinkney to Mr. Smith.

LONDON, *February* 19, 1810.

SIR: I received on the 12th instant, by Mr. Powell, whom I had sent some time before to France, a letter from Gen. Armstrong, of which a copy is enclosed; and, keeping in view the instructions, contained in your letter to me of the 11th of November last, I have written to Lord Wellesley to inquire whether any, and, if any, what blockades of France, instituted by Great Britain during the present war, before the 1st of January, 1807, are understood here to be in force. A copy of my letter to Lord Wellesley is enclosed.

It is not improbable that this official inquiry will produce a declaration, in answer to it, that none of those blockades are in force; and I should presume that such a declaration will be received in France as substantially satisfying the condition announced to me by General Armstrong.

I am not aware that this subject could have been brought before the British Government in any other form than that which I have chosen. It would not, I think, have been proper to have applied for a revocation of the blockades in question, (at least before it is ascertained that they are in existence,) or to have professed, in my letter to Lord Wellesley, to found, upon General Armstrong's communication, my inquiry as to their actual state. I have, however, supposed it to be indispensable (and have acted accordingly) that I should explain to Lord Wellesley in conversation the probability afforded, by Gen. Armstrong's letter, that a declaration by this Government, to the effect above-mentioned, would be followed by the recall of the Berlin decree.

I cannot, perhaps, expect to receive from Lord Wellesley an answer to my letter in time to send a copy by the John Adams, now in the Downs or at Portsmouth; but I will send it by an early opportunity, and will take care that General Armstrong shall be made acquainted with it without delay. I have the honor to be, &c.

WM. PINKNEY.

MARCH 23, 1810.

P. S. Since the writing of this letter Lord Wellesley has sent me the answer, (of the 2d instant,) of which a copy is now enclosed. It was not satisfactory, and I pointed out its deficiencies to Lord Wellesley in conversation, and proposed to him that I should write him another letter requesting explanations. He assented to this course, and I have written him the letter of the 7th instant, of which also a copy is enclosed. His reply has been promised very frequently, but has not yet been received. I have reason to expect that it will be sufficient, but I cannot think of detaining the corvette any longer. The British packet will furnish me with an opportunity of forwarding it to you, and I will send Mr. Lee with it to Paris, by the way of Morlaix.

I have the honor to be, &amp;c.

WM. PINKNEY.

Hon. R. SMITH, &amp;c.

[Enclosed in the preceding despatch.]

From General Armstrong to Mr. Pinkney.

PARIS, *January* 25, 1810.

SIR: A letter from Mr. Secretary Smith, of the 1st of December last, made it my duty to inquire of his Excellency the Duke of Cadore what were the conditions on which His Majesty the Emperor would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades of a date anterior to that decree, His Majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger:

ANSWER.—“The only condition required for the revocation, by His Majesty the Emperor, of the decree of Berlin will be, a previous revocation by the British Government of her blockades of France, or part of France, (such as that from the Elbe to Brest, &c.,) of a date anterior to that of the aforesaid decree.”

I have the honor to be, &amp;c.

JOHN ARMSTRONG.

WM. PINKNEY, Esq., &amp;c.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,  
*February* 15, 1810.

MY LORD: In pursuance of the intimation which I had the honor to give to your Lordship a few days ago, I beg to trouble your Lordship with an inquiry whether any, and, if any, what blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I am not able at present to specify more than one of the blockades to which this inquiry applies, namely, that from the Elbe to Brest, declared in May, 1806, and afterward limited and modified; but I shall be much obliged to your Lordship for precise information as to the whole.

I have the honor to be, &amp;c.

WM. PINKNEY.

The Marquis WELLESLEY, &amp;c.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, *March* 2, 1810.

SIR: I have the honor to acknowledge the receipt of your note of the 15th ultimo, wherein you request to be informed whether any, and, if any, what blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I have now the honor to acquaint you that the coast, rivers, and ports, from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the Order of Council of the 7th of January, 1807; which order is still in force.

I have the honor to be, &amp;c.

WELLESLEY.

WM. PINKNEY, Esq., &amp;c.

*Relations with Great Britain.*

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,  
March 7, 1810.

MY LORD: I have had the honor to receive your Lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807.

I infer, from that answer, that the blockade, notified by Great Britain in May, 1806, from the Elbe to Brest, is not itself in force, and that the restrictions which it established rest altogether, so far as such restrictions exist at this time, upon an order or Orders in Council issued since the 1st day of January, 1807.

I infer, also, either that no other blockade of France was instituted by Great Britain during the period above-mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your Lordship to do me the honor to inform me whether these inferences are correct, and, if incorrect, in what respects they are so? I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS OF WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

LONDON, February 23, 1810.

SIR: I have the honor to transmit, enclosed, a copy of a notification of the blockade of the "coast and ports of Spain, from Gijon to the French territory," received from Lord Wellesley two days ago. I have not yet given any answer to this communication. I have, &c.

WM. PINKNEY.

Hon. ROBERT SMITH, &c.

[Referred to in Mr. Pinkney's letter of February 23.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, February 20, 1810.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to inform Mr. Pinkney, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, that the King has judged it expedient to signify his commands to the Lords Commissioners of the Admiralty to establish a strict blockade of the coasts and ports of Spain, from Gijon to the French territory, which will be maintained and enforced, according to the usages of war acknowledged and observed in similar cases.

Mr. Pinkney is, therefore, requested to apprise the American Consuls and merchants residing in England, that the whole of the Spanish coast above-mentioned is, and must be considered as, in a state of blockade; and that, from this time, all the measures, authorized by the law of nations and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

11th CON. 3d SESS.—37

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

WELLESLEY.

WM. PINKNEY, Esq., &c.

Mr. Pinkney to Mr. Smith.

LONDON, March 21, 1810.

SIR: On the 27th of November, Mr. Brunnell delivered to me your letters of the 11th, 14th, and 23d of the preceding month, and on the Saturday following I had a conference with the Marquis of Wellesley, in the course of which I explained to him fully the grounds upon which I was instructed to request Mr. Jackson's immediate recall, and upon which the official intercourse between that Minister and the American Government had been suspended.

Lord Wellesley's reception of what I said to him was frank and friendly, and I left him with a persuasion that we should have no cause to be dissatisfied with the final course of his Government on the subject of our conference.

We agreed in opinion that this interview could only be introductory to a more formal proceeding on my part; and it was accordingly settled between us that I should present an official letter, to the effect of my verbal communication.

Having prepared such a letter, I carried it myself to Downing street a few days afterwards, and accompanied the delivery of it to Lord Wellesley, with some explanatory observations, with which it is not, I presume, necessary to trouble you. You will find a copy of this letter enclosed, and will be able to collect from it the substance of the greater part of the statements and remarks which I thought it my duty to make in the conversation above-mentioned.

Although I was aware that the answer to my letter would not be very hastily given, I certainly was not prepared to expect the delay which has actually occurred. The President will do me the justice to believe, that I have used every exertion, consistent with discretion and the nature of the occasion, to shorten that delay, which, though not ascribable, as I persuade myself, to any motive unfriendly or disrespectful to the United States, may, I am sensible, have been productive of some disadvantage. A copy of the answer, received on the day of its date, is enclosed.

Between the delivery of my letter and the receipt of the reply, I had frequent conversations with Lord Wellesley, some of which were at his own request, and related altogether to the subject of my letter. The rest were on other subjects; but Mr. Jackson's affair was incidentally mentioned in all. A particular account of what was said on these several occasions would scarcely be useful, and could not fail to be tedious. It will, perhaps, be sufficient to observe, that, although these conversations were less satisfactory to me than the first, there was always an apparent anxiety on the part of Lord Wellesley to do what was conciliatory; and that, in the share which I took in them, I was governed by an opinion that, although it might become my duty

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to avoid, with more than ordinary care, all appearance of my being a party to the ultimate proceeding of the British Government upon my official representation, it could not be otherwise than proper, in any turn which the affair could take, that I should avail myself of every opportunity of bringing to Lord Wellesley's mind such considerations as were calculated to produce a beneficial influence upon the form and character of that proceeding. In what light the President will view the course, after so much deliberation, this Government has adopted, it would not become me even to conjecture. If, either in manner or effect, it should not fulfil his expectations, I shall have to regret that the success of my humble endeavors to make it what it ought to be, has not been proportioned to my zeal and diligence.

Of my letter to Lord Wellesley of the 2d of January, I have very little to say. I trust it will be found faithful to my instructions; and that, while it maintains the honor of my Government, it does not neglect what is due to conciliation.

I am not sure that I ought to have quoted in it your letter to me of the 11th of November, of which the subject is undoubtedly given in the quotation from your subsequent letter of the 23d of the same month. But I saw no objection to a repetition of the just and amicable sentiment expressed in these quotations; and, as I had been induced, at my first interview with Lord Wellesley, to read to his Lordship each of the passages, I felt that I was in some sort bound to the introduction of both into my written communication.

My letter avoids all discussion, and all invitation to discussion, on the business of the Chesapeake, on the Orders in Council, and on other topics which circumstances have connected with both. It does not, however, entirely pass them by; but contains such references to them as, I supposed, were likely to be useful. I feel assured that, in this respect, I have acted in conformity with the President's intentions. Indeed, if I had acted otherwise, I should have complicated and embarrassed a question which I was ordered to simplify, and forced into combination the peculiar difficulties of several subjects, to counteract the wishes of my own Government upon each. I should have done so, too, without inducement; for I had no authority to make any demand or proposal in the cases of the Chesapeake and Orders in Council, or to act upon any proposal which Lord Wellesley might be inclined to make to me; and it was perfectly clear that these subjects were not susceptible of any very material written illustrations which they had not already received. I did not, however, imagine that I was to make no use of the reflections upon these which you had furnished in your letter of the 23d of November. I was, on the contrary, convinced that it would be proper to suggest them occasionally in conversation, with a view to dispose Lord Wellesley, and, through him, the British Government, to seek such fair and liberal adjustments with us as would once more make us friends. Accordingly, in my first conference,

I spoke of the affair of the Chesapeake and the Orders in Council, and concluded my explanations, which did not lose sight of your letter of the 23d of November, by expressing a wish that Lord Wellesley would allow me an early opportunity of a free communication with him on these heads. From the disposition evinced by Lord Wellesley, in the notice which he took of these suggestions and of that wish, I was inclined to hope that it might be in my power to announce to you, by the return of the corvette, that a new envoy would be charged, as the successor of Mr. Jackson, with instructions adapted to the purpose of honorable accommodation. My letter to his Lordship was written under the influence of this hope, and concludes, as you will perceive, with as strong an appeal to the disposition on which it rested, as could with propriety be made.

I recurrd, in subsequent conversations, as often as occasion presented itself, to the attack on the Chesapeake and to the Orders in Council. It soon appeared, however, that a new Envoy would not, in the first instance, be sent out to replace Mr. Jackson, and, consequently, that an arrangement of these subjects was not, in that mode, to be expected. A special mission would still less be resorted to; and it was not likely that approaches to negotiation would be made through a *Chargé d'Affaires*. It was still barely possible that, though I had no powers to negotiate and conclude, the British Government might not be disinclined to make advances through me, or that Lord Wellesley would suffer me so far to understand the views of his Government, as that I might enable you to judge upon what conditions and in what mode arrangement was practicable. This was possible, though not very probable; but it finally became certain that no definite proposal would, for the present at least, be made to us through any channel, and that Lord Wellesley would not commit himself upon the details to which I wished him to speak, but upon which, of course, I did not press him.

It only remains to refer you, for the actual sentiments of this Government, with regard to future negotiation, to the concluding paragraph of Lord Wellesley's letter to me; which is substantially the same with his recent verbal explanations; and to add that, in a short conversation since the receipt of his letter, he told me that, if I thought myself empowered to enter upon and adjust the case of the Chesapeake, he would proceed without delay to consider it with me.

I have not supposed that Lord Wellesley's letter requires any other than the common answer; and I have, accordingly, given the reply of which a copy is now transmitted. I have, &c.

WILLIAM PINKNEY.

Hon. ROBERT SMITH, &c.

[Referred to in Mr. Pinkney's despatch March 21, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, Jan. 2, 1810.

MY LORD: In the course of the official correspondence which has lately taken place between

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the Secretary of State of the United States, and Mr. Jackson, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington, it has unfortunately happened that Mr. Jackson has made it necessary that I should receive the commands of the President to request his recall, and that, in the mean time, the intercourse between that Minister and the American Government should be suspended.

I am quite sure, my Lord, that I shall best consult your Lordship's wishes; and the respect which I owe to His Majesty's Government, by executing my duty on this occasion with perfect simplicity and frankness. My instructions, too, point to that course as required by the honor of the two Governments, and as suited to the confidence which the President entertains in the disposition of His Majesty's Government to view in its true light the subject to which they relate. With such inducements to exclude from this communication everything which is not intimately connected with its purpose, and, on the other hand, to set forth, with candor and explicitness, the facts and considerations which really belong to the case, I should be unpardonable if I fatigued your Lordship with unnecessary details, or affected any reserve.

It is known to your Lordship that Mr. Jackson arrived in America, as the successor of Mr. Erskine, while the disappointment, produced by the disavowal of the arrangement of the 19th of April, was yet recent, and while some other causes of dissatisfaction, which had been made to associate themselves with that disappointment, were in operation; but your Lordship also knows that his reception by the American Government was marked by all that kindness and respect which were due to the representative of a Sovereign, with whom the United States were sincerely desirous of maintaining the most friendly relations.

Whatever were the hopes which Mr. Jackson's mission had inspired of satisfactory explanations and adjustments upon the prominent points of difference between the two countries, they certainly were not much encouraged by the conferences, in which, as far as he thought proper, he opened to Mr. Smith, soon after his arrival, the nature and extent of his powers and the views of his Government. After an experiment, deemed by the Government of the United States to be sufficient, it appeared that these conferences, necessarily liable to misconception and want of precision, were not likely to lead to any practical conclusion.

Accordingly, on 9th of October, Mr. Smith addressed a letter to Mr. Jackson, in which, after stating the course of proceeding which the American Government had supposed itself entitled to expect from him with regard to the rejected arrangement and the matters embraced by it, after recapitulating what Mr. Smith believed to have passed in their recent interviews relative to those subjects, he intimated that it was thought expedient that their further discussions, on that particular occasion, should be in writing.

It is evident, my Lord, from Mr. Jackson's reply of the 11th of the same month, that he received this intimation (which, carefully restricted as it was, he seems to have been willing to understand in a general sense) with considerable sensibility. He speaks of it in that reply as being without example in the annals of diplomacy; as a step against which it was fit to enter his protest; as a violation, in his person, of the most essential rights of a public Minister; as a new difficulty thrown in the way of a restoration of a thorough good understanding between the two countries.

I need not remark to your Lordship that nothing of all this could, with propriety, be said of a proceeding, in itself entirely regular and usual, required by the state of the discussions to which only it was to be applied, and proposed in a manner perfectly decorous and unexceptionable. The Government of the United States had expected from Mr. Jackson an explanation of the grounds of the refusal, on the part of his Government, to abide by Mr. Erskine's arrangement, accompanied by a substitution of other propositions. It had been collected from Mr. Jackson's conversations, that he had no power whatsoever to give any such explanation; or, in the business of the Orders in Council, to offer any substitute for the rejected agreement; or, in the affair of the Chesapeake, to offer any substitute that could be accepted; and it had been inferred, from the same conversations, that, even if the American Government should propose a substitute for that part of the disavowed adjustment which regarded the Orders in Council, the substitute could not be agreed to, (if, indeed, Mr. Jackson had power to do more than discuss it,) unless it should distinctly recognise conditions which had already been declared to be wholly inadmissible.

To what valuable end, my Lord, loose conversations, having in view either no definite result, or none that was attainable, could, under such circumstances and upon such topics, be continued, it would not be easy to discover; and I think I may venture to assume that the subsequent written correspondence has completely shown that they could not have been otherwise than fruitless, and that they were not too soon abandoned for that formal course to which, from the beginning, they could only be considered as preparatory.

After remonstrating against the wish of the American Government to give to the further discussions a written form, Mr. Jackson disposes himself to conform to it; and, speaking in the same letter of the disavowal of the arrangement of April, he declares that he was not provided with instructions to explain the motives of it; and he seems to intimate that explanation, through him, was unnecessary, not only because it had already been made through other channels, but because the Government of the United States had entered into the arrangement with a knowledge "that it could only lead to the consequences that actually followed." In the conclusion of the fourth paragraph of the letter, he informs Mr. Smith that the despatch of Mr. Canning to Mr. Erskine, "which Mr. Smith had made the basis

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of an official correspondence with the latter Minister, and which had been read to the American Minister in London," was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with the United States on the matter to which it related.

Mr. Smith's answer to this letter bears date the 19th of October; and I beg your Lordship's permission to introduce from it the following quotation: "The stress you have laid upon what you have been pleased to state as the substitution of the terms finally agreed on [in the arrangement of April on the Orders in Council] for the terms first proposed, [by Mr. Erskine,] has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the same conditions which now appear in the present document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit; and that, on finding his first proposal unsuccessful, the more reasonable terms, comprised in the arrangement respecting the Orders in Council, were adopted. And what is there to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is anything more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and is confirmed by universal experience.

"What are the real and entire instructions given to your predecessor, is a question essentially between him and his Government. That he had, or, at least, that he believed he had, sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter, of the 15th of June, renewing his assurances to me, 'that the terms of the agreement so happily concluded by the recent negotiation will be strictly fulfilled on the part of His Majesty,' is an evident indication of what his persuasion then was as to his instructions. And, with a view to show what his impressions have been, even since the disavowal, I must take the liberty of referring you to the annexed extracts [see C] from his official letters of the 31st of July and of the 14th of August."

"The declaration, 'that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this Government. And I need hardly add, that, if that despatch had been communicated at the time of the arrangement, or if it had been made known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on

which he was authorized to make an arrangement, the arrangement would not have been made."

I suppose, my Lord, that it was impossible to disclaim for the American Government, in more precise and intelligible language than is found in this quotation, all knowledge of Mr. Erskine's instructions, incompatible with a sincere, honorable, and justifiable belief that he was, as he professed to be, fully authorized to make the agreement in which he undertook to pledge the faith of His Majesty's Government. Yet, in Mr. Jackson's next letter (of the 23d of October) to Mr. Smith, he says, "I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was in violation of that gentleman's instructions, and altogether without authority to subscribe, to the terms of it. These instructions, I now understand from your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement."

Your Lordship will allow me to take for granted, that this passage cannot be misunderstood. Its direct and evident tendency is to fasten upon the Government of the United States an imputation most injurious to its honor and veracity. The charge, that it had all along been substantially apprized, however it might affect to be ignorant, of the instructions which Mr. Erskine's arrangement were said to have violated, had before been insinuated; but it is here openly made, in reply; too, to a paper in which the contrary is formally declared by the official organ of the American Government.

This harsh accusation, enhanced by the tone of the letter in which it appeared, was in all respects as extraordinary as it was offensive. It took the shape of an inference from facts and asseverations, which necessarily led to the opposite conclusion. It was preferred as an answer to a claim of explanation, which Mr. Jackson professed not to be authorized by his Government to offer at all, but which he chose so to offer from himself as to convert explanation into insult. It was advanced, not only without proof and against proof, but against all color of probability. It could scarcely have been advanced, under any conviction, that it was necessary to the case which Mr. Jackson was to maintain; for His Majesty's Government had disavowed Mr. Erskine's arrangement, according to Mr. Jackson's own representations, without any reference to the knowledge which this accusation imputed to the Government of the United States; and it need not be stated, that no allusion whatsoever was made to it by Mr. Secretary Canning, in those informal communications to me which Mr. Jackson has mentioned. It was not, moreover, to have been expected that, in the apparent state of Mr. Jackson's powers, and in the actual posture of his ne-

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gotiation, he would seek to irritate where he could not arrange, and sharpen disappointment by studied and unprovoked indignity.

The course which the Government of the United States adopted on this painful occasion was such as at once demonstrated a sincere respect for the public character with which Mr. Jackson was invested, and a due sense of its own dignity. Mr. Jackson's conduct had left a feeble hope that further intercourse with him, unproductive of good as it must be, might still be reconcilable with the honor of the American Government. A fair opportunity was accordingly presented to him of making it so, by Mr. Smith's letter of the 1st of November, of which I beg leave to insert the concluding paragraph:

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that, with such knowledge, no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

Whatever was the sense in which Mr. Jackson had used the expressions to which the American Government took exception, he was now aware of the sense in which they were understood; and, consequently, was called upon, if he had been misapprehended, to say so. His expressions conveyed an injurious meaning, supported, moreover, by the context, and the notice taken of them had not exceeded the bounds of just admonition. To have explained away even an imaginary affront would have been no degradation; but when an occasion was thus offered, to qualify real and severe imputations upon the Government to which he was accredited, it could scarcely be otherwise than a duty to take immediate advantage of it.

Such, however, was not Mr. Jackson's opinion. He preferred answering the appeal, which had been made to him, by reiterating with aggravations the offensive insinuation. He says, in the last paragraph of his letter of the 4th of November, to Mr. Smith, "You will find that, in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me; and least of all should I think of uttering an insinuation where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered. In so doing, I must continue, whenever the good faith of His

Majesty's Government is called in question, to vindicate his honor and dignity, in the manner that appears to me best calculated for that purpose."

To this, my Lord, there could be but one reply. Official intercourse with Mr. Jackson could no longer be productive of any effects that were not rather to be avoided than desired; and it was plainly impossible that it should continue. He was, therefore, informed by Mr. Smith, in a letter of the 8th of November, which recapitulated the inducements to this unavoidable step, that no further communications would be received from him; that the necessity of this determination would, without delay, be made known to his Government; and that, in the mean time, a ready attention would be given to any communications, affecting the interests of the two nations, through any other channel that might be substituted.

The President has been pleased to direct that I should make known this necessity to His Majesty's Government, and, at the same time, request that Mr. Jackson be recalled. And I am particularly instructed to do this in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my Lord, to make His Majesty's Government sensible, that, in requiring the recall of Mr. Jackson, the United States wish not to be understood as in any degree obstructing communications, which may lead to a friendly accommodation; but that, on the contrary, they sincerely retain the desire, which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the Minister who has rendered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions requisite for the complete success of his mission; or, if the attainment of this object, through my agency, should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.

These instructions, which I lay before your Lordship without disguise, require no comment.

Before I conclude this letter, it may be proper very shortly to advert to two communications, received by Mr. Secretary Smith from Mr. Oakley, after the correspondence with Mr. Jackson had ceased.

The first of these communications (of which I am not able to ascertain the date) requested a document, having the effect of a special passport or safeguard, for Mr. Jackson and his family, during their further stay in the United States. This application was regarded as somewhat singular; but the document, of which the necessity was not perceived, was nevertheless furnished. The reasons assigned for the application excited some surprise. I have troubled your Lordship, in conversation, with a few remarks from my instructions, upon one of those reasons, which I will take



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the liberty to repeat. The paper in question states that Mr. Jackson "had already been once most grossly insulted by the inhabitants of Hampton, in the unprovoked language of abuse held by them to several officers bearing the King's uniform, when those officers were themselves assaulted and put in imminent danger."

I am given to understand, my Lord, that the insult here alluded to was for the first time brought under the notice of the American Government by this paper; that it had, indeed been among the rumors of the day, that some unbecoming scene had taken place at Hampton or Norfolk, between some officers belonging to the *Africaine* frigate and some of the inhabitants, and that it took its rise in the indiscretion of the former; that, no attention to the circumstance having been called for, and no inquiry having been made, the truth of the case is unknown; but that it never was supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted, nor is it yet understood in what way he supposes that he was so. I am authorized to add, that any complaint or representation on the subject would instantly have received every proper attention.

The other communication—of which the substance was soon afterwards published to the American people in the form of a circular letter from Mr. Jackson to the British Consuls in the United States—seems to have been intended as a justification of his conduct, in that part of his correspondence which had given umbrage to the American Government. This paper (bearing date the 13th November) is not very explicit; but it would appear to be calculated to give rather a new form to the statements, which Mr. Jackson had suffered the Government of the United States to view in another light, until it had no choice but to act upon the obvious and natural interpretation of them sanctioned by himself.

It was never objected to Mr. Jackson, (as this paper seems to suggest,) that he had stated that the three propositions in Mr. Erskine's original instructions were submitted to Mr. Smith by that gentleman; or that he had stated it as made known to him by Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived, for the conclusion of an arrangement on the matter to which it related.

The objection was, that he had ascribed to the American Government a knowledge that the propositions submitted to its consideration by Mr. Erskine were indispensable conditions, and that he did so even after that knowledge had been distinctly disclaimed, and he had been made to perceive that a repetition of the allegation could not be suffered.

I willingly leave your Lordship to judge whether Mr. Jackson's correspondence will bear any other construction than it in fact received; and whether, supposing it to have been erroneously construed, his letter of the 4th November should not have corrected the mistake, instead of confirming and establishing it.

As an *explanation*, this paper was even worse

than nothing. It had not the appearance of an attempt to rectify misapprehension. It sought to put the American Government in the wrong, by assuming that what had given so much umbrage ought not to have given any. It imported reproach rather than explanation. It kept out of sight the real offence, and, introducing a new and insufficient one in its place, seemed to disclose no other wish than to withdraw from the Government of the United States the ground upon which it had proceeded. Its apparent purpose, in a word, was to fix a charge of injustice upon the past—not to produce a beneficial effect upon the future. In this view, and in this only, it was perfectly consistent that it should announce Mr. Jackson's determination to retire to New York.

The time when this paper was presented will not have escaped your Lordship's observation. It followed the demand, already mentioned, of a safeguard for "Mr. Jackson, his family, and the gentlemen attached to his mission"—a demand which cannot be regarded—especially if we look to the inducements to which it was referred, as either conciliatory or respectful. It followed, too, the letter of the 4th November, which, had explanation been intended, ought undoubtedly to have contained it; but which, in lieu of it, contained fresh matter of provocation. It was itself followed by the publication of its own substance in another garb. On the very day of its date, when Mr. Jackson, if he meant it as an explanation, could not be justified in concluding that it would not be satisfactory, it was moulded by him into the circular address to which I have before alluded; and immediate steps appear to have been taken to give to it, in that shape, the utmost publicity. I have no wish, my Lord, to make any strong remarks upon that proceeding. It will be admitted that it was a great irregularity; and that, if Mr. Jackson had been particularly anxious to close every avenue to reconciliation between the American Government and himself, he could not have fallen upon a better expedient.

I have now only to add, my Lord, the expression of my own most ardent wish, that out of the incident which has produced this letter, an occasion may be made to arise, which, improved as it ought to be, and I trust will be, by our respective Governments, may conduct them to a cordial and lasting friendship. Thus to endeavor to bring good out of evil, would be worthy of the rulers of two nations that are only in their natural position when they are engaged in offices of mutual kindness, and largely contributing to the prosperity and happiness of each other.

I have the honor to be, with the highest consideration, my Lord, your Lordship's most obedient, humble servant,

WILLIAM PINKNEY.

The MARQUIS OF WELLESLEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, March 14, 1810.

SIR: The letter which I had the honor to receive from you, under date of the 2d of January,

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together with the additional paragraph received on the 24th of January, has been laid before the King.

The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you that it is the sincere desire of His Majesty's Government, on the present occasion, to avoid any discussion which might obstruct the renewal of amicable intercourse between the two countries.

The correspondence between Mr. Jackson and Mr. Smith has been submitted to His Majesty's consideration.

His Majesty has commanded me to express his concern that the official communication between His Majesty's Minister in America and the Government of the United States should have been interrupted before it was possible for his Majesty, by any interposition of his authority, to manifest his invariable disposition to maintain the relations of amity with the United States.

I am commanded by His Majesty to inform you, that I have received from Mr. Jackson the most positive assurances that it was not his purpose to give offence to the Government of the United States by any expression contained in his letters, or by any part of his conduct.

The expressions and conduct of His Majesty's Minister in America having, however, appeared to the Government of the United States to be exceptionable, the usual course in such cases would have been to convey, in the first instance, to His Majesty, a formal complaint against his Minister, and to desire such redress as might be deemed suitable to the nature of the alleged offence.

This course of proceeding would have enabled His Majesty to have made such arrangements, or to have offered such seasonable explanations, as might have precluded the inconvenience which must always arise from the suspension of official communication between friendly Powers.

His Majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of States in amity with him; and he has, therefore, been pleased to direct the return of Mr. Jackson to England.

But His Majesty has not marked with any expression of his displeasure the conduct of Mr. Jackson, whose integrity, zeal, and ability, have long been distinguished in His Majesty's service, and who does not appear, on the present occasion, to have committed any intentional offence against the Government of the United States.

I am commanded to inform you that Mr. Jackson is ordered to deliver over the charge of His Majesty's affairs in America to a person properly qualified to carry on the ordinary intercourse between the two Governments, which His Majesty is sincerely desirous of cultivating on the most friendly terms.

As an additional testimony of this disposition, I am authorized to assure you that His Majesty is ready to receive, with sentiments of undiminished amity and good will, any communication which the Government of the United States may deem beneficial to the mutual interests of both

countries, through any channel of negotiation which may appear advantageous to that Government.

I request you will accept the assurances of the high consideration with which I have the honor to be, sir, your most obedient and humble servant,  
WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

March 17, 1810.

MY LORD: I have had the honor to receive your Lordship's letter of the 14th instant, in reply to mine of the 2d January, and will lose no time in transmitting it to my Government.

I have the honor to be, &c.

WILLIAM PINKNEY.

LORD WELLESLEY, &c.

Extract—Mr. Pinkney to Mr. Smith.

LONDON, March 27, 1810.

I have the honor to enclose a copy of Lord Wellesley's reply to my letter of the 7th instant, respecting the British blockades of France before the Berlin decree.

I do not think it of such a nature as to justify an expectation that General Armstrong will be able to make any use of it at Paris, but I shall nevertheless convey to him the substance of it without delay.

[Referred to in Mr. Pinkney's letter of March 27.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, March 26, 1810.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, requesting a further explanation of my letter of the 2d, concerning the blockades of France instituted by Great Britain during the present war, before the 1st day of January, 1807.

The blockade notified by Great Britain in May, 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated that the restrictions which it established rest altogether on the Order of Council of the 7th January, 1807; they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France was instituted by Great Britain between the 16th May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th July, 1806, which is still in force.

I beg you to accept the assurances of high consideration with which I have the honor to be, sir, your most obedient, humble servant,

WELLESLEY.

Mr. Pinkney to General Armstrong.

LONDON, April 6, 1810.

DEAR SIR: I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain the recall of the Berlin decree. Certainly, the inference from that statement is, that the blockade of 1806 is virtue

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ally at an end, being merged and comprehended in an Order in Council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, and of that of Venice, or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon, if indeed they can be obtained at all, I will not detain Mr. Lee, but will send you another messenger (Mr. Craig, of Philadelphia) in the course of three or four weeks, with the result of my endeavors. In the meantime, such use can be made of my communication of the 27th ultimo as you may deem advisable. I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, April 8, 1810.

SIR: In a short letter of the 2d instant, by Mr. John Wallace, in the British packet, I had the honor to acknowledge the receipt, on the 31st of last month, by Dr. Logan, of your letters of the 20th January and the 16th February, and to inform you that I had, in consequence, an appointment to meet Lord Wellesley on the 3d.

At the interview which took place in pursuance of that appointment, I explained to Lord Wellesley the nature of the powers now confided to me, and, as far as was necessary, the subjects to which they related. The result of the conversation which ensued was an understanding that we should begin with an attempt to settle the affair of the Chesapeake; and, that attempt being successful, that we should proceed to consider next the subject of the Orders in Council; and lastly, the commercial and other concerns embraced by the commission of 1806, to Mr. Monroe and myself.

In conformity with this understanding, it was agreed that I should immediately follow up the conference with a note, stating my authority to adjust with the British Government the case of the Chesapeake; and I have accordingly prepared and sent to Lord Wellesley the letter of which a copy is enclosed. I have not since heard from his Lordship, to whom, of course, it now belongs to make proposals.

It will not, I trust, be thought that my letter, which is simply an official notification, in civil terms, of my power to receive and act upon such overtures as this Government may choose to make, goes too far. I have the honor to be &c.

WILLIAM PINKNEY.

P. S.—April 9. I have just received from Lord Wellesley a note, of which a copy is enclosed, inviting me to a conference on Thursday next. (the 12th), doubtless on the affair of the Chesapeake.

I have the honor to be, &c.

W. P.

[Referred to in Mr. Pinkney's letter of April 8, 1810.]

Mr. Pinkney to Lord Wellesley.

CUMBERLAND PLACE, (without date.)

MY LORD: I have the honor to state to your Lordship, in conformity with my verbal explanations in a recent conference, that I am authorized to adjust with His Majesty's Government

the case of the attack on the American frigate Chesapeake, in the month of June, 1807, by the British ship the Leopard.

It will give me sincere pleasure to communicate with your Lordship on this interesting subject, in such manner as shall be thought best calculated to lead to a fair and honorable arrangement of it, preparatory to the restoration of kindness and beneficial intercourse between the two countries. I have the honor to be, &c.

WILLIAM PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, April 9, 1810.

The Marquis Wellesley presents his compliments to Mr. Pinkney, and will be happy to have the honor of seeing him at the Foreign Office on Thursday next, at 2 p. m., if that hour should suit his convenience.

Mr. Pinkney to Mr. Smith.

LONDON, April 9, 1810.

SIR: I have, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French Minister's official statement to General Armstrong of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British Government to a revocation (or to a precise declaration that they are no longer in force) of the blockade of May, 1806, and of that of Venice, especially the former. As the answer to this letter (upon which I wish to converse with Lord Wellesley before I deliver it) will not probably be very prompt, I have, in the mean time, sent Mr. Lee to Paris, with two letters to General Armstrong, of which copies are enclosed. I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to General Armstrong.

LONDON, April 6, 1810.

DEAR SIR: I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain the recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an Order in Council, issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, and of that of Venice, or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon (if, indeed, they can be obtained at all) I will not detain Mr. Lee, but will send you another messenger (Mr. Craig, of Philadelphia) in the course of three or four weeks, with the result of my endeavors.

In the meantime such use can be made of my communication of the 27th ultimo as you may deem advisable. I have the honor to be, &c.

WILLIAM PINKNEY.

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Mr. Pinkney to Mr. Smith.

LONDON, May 2, 1810.

SIR: I had the honor to inform you, in my letter of the 9th of last month, that I had, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French Minister's official statement to General Armstrong of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British Government to a revocation, or to a precise declaration that they are no longer in force, of the blockade of May, 1806, and that of Venice, especially the former.

I have now the honor to transmit a copy of the letter which, in pursuance of that determination, I have just sent to Lord Wellesley. I am not able to say what will be the nature of the answer to it; but if it should be satisfactory, I will lose no time in communicating it to General Armstrong. I have the honor to be, &c.

WILLIAM PINKNEY.

[Referred to in Mr. Pinkney's letter of May 2, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,  
April 30, 1810.

MY LORD: The French Minister for Foreign Affairs has stated, in an official note to General Armstrong, the Minister Plenipotentiary of the United States at Paris, that "the only condition required for the revocation by the French Government of the decree of Berlin, will be the previous revocation by the British Government of her blockades of France, or part of France (such as that from the Elbe to Brest, &c.) of a date anterior to the date of the aforesaid decree."

I had supposed that the blockades of France, instituted by Great Britain before the date of the Berlin decree, were already withdrawn, virtually, though not formally, by reason of the restrictions which they established having been provided for and comprehended in certain Orders in Council issued after the date of that decree; and your Lordship's letter to me of the 26th of last month certainly seems to confirm that supposition with regard to the blockade of May, 1806, although it proves it to be erroneous with regard to the only other blockade which falls within the description of the French Minister's communication, namely, the blockade of Venice established in July of the same year.

As I am anxious to neglect nothing which may have a tendency to produce the repeal of the Berlin decree, and of such other decrees and orders as the Government of the United States has from time to time complained of, I beg to inquire of your Lordship, with a view to the terms of the above-mentioned note to General Armstrong, whether there exists any objection on the part of His Majesty's Government to a revocation, or to a declaration that they are no longer in force, of the blockades in question, especially that of May, 1806. I have the honor to be, &c.

WILLIAM PINKNEY.

Marquis WELLESLEY, &amp;c.

Mr. Pinkney to Mr. Smith.

LONDON, May 3, 1810.

SIR: I enclose a copy of a letter which I am about to send to Lord Wellesley, concerning the forgery in England of American ships' papers, for the purpose of giving to English vessels the character of American bottoms.

In conformity with your letter of the 3d of November last, which came to hand on the 10th of January, I mentioned the subject to Lord Wellesley as soon as I thought it expedient to do so. He gave no opinion upon it; but when I observed that it would perhaps be better to lay the matter before him at once in writing, he expressed his approbation of that course. As there is nothing in the subject itself, or in your letter, to forbid it, I shall send him my paper to-day or to-morrow. I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of May 3, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,  
May 3, 1810.

MY LORD: I have the honor to call your Lordship's attention, in pursuance of the instructions of my Government, to a practice which has, for some time past, prevailed in this country, of forging American ships' papers for the purpose of giving to English vessels the character of American bottoms.

It appears, from various sources of information, that these fabrications are carried to a great extent, particularly in London, and that the fraudulent papers are purchased as a regular article of traffic, and used in numerous instances, so as to bring into suspicion the genuine documents on which the safety of American commerce depends, and to subject that commerce to serious vexation and loss.

I am confident, my Lord, that it is only necessary to suggest to His Majesty's Government the existence of these abuses, so injurious to the United States, and so pernicious in their general tendency, to induce it to cause immediate inquiry to be made, with a view to an efficacious remedy. I have, therefore, only to add, that I am in possession of some papers which throw considerable light on the subject, and which (with such other information as I have obtained or may obtain) I shall be happy to communicate to your Lordship whenever your Lordship thinks proper.

I have the honor to be, &amp;c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, May 18, 1810.

SIR: I have the honor to enclose a copy of a communication, made to me on the 14th instant, by Lord Wellesley, concerning a partial relaxation of the blockade, notified some time ago, of the coast and ports of Spain, between Gijon and the French territory. I have the honor to be, &c.

WILLIAM PINKNEY.

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[Referred to in Mr. Pinkney's letter of May 18.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, *May 14, 1810.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to inform Mr. Pinkney, that the King has judged it expedient to signify his orders to the Lords Commissioners of the Admiralty to give the necessary directions to the officers employed in the blockade of the coast and ports of Spain, from Gijon to the French territory, that they permit, notwithstanding the said blockade, Spanish or neutral vessels laden with cargoes, the produce of Spain only, to sail from any port included in the limits of said blockade, subject, nevertheless, (as to the ports to which they trade,) to the restrictions of His Majesty's Orders in Council of the 26th of April, 1809, and of the 7th of January, 1807.

The undersigned requests Mr. Pinkney to accept assurances of his high consideration.

WELLESLEY.

Mr. Smith, Secretary of State, to Mr. Pinkney.

DEPARTMENT OF STATE, *May 22, 1810.*

SIR: Your despatch of the 27th of March, by the British packet, was received on the 17th of this month.

The President has read with surprise and regret the answer of Lord Wellesley to your letter of the 2d January, and also his reply to your note requiring explanations with respect to the blockade of France. The one indicates an apparent indifference as to the character of the diplomatic intercourse between the two countries, and the other evinces an inflexible determination to persevere in their system of blockade.

The provision made for the diplomatic agency which is to succeed that of Mr. Jackson, manifests a dissatisfaction at the step necessarily taken here with regard to that Minister, and at the same time a diminution of the respect heretofore attached to the diplomatic relations between the two countries. However persevering the President may be in the conciliatory disposition which has constantly governed him, he cannot be inattentive to such an apparent departure from it on the other side, nor to the duty imposed on him by the rules of equality and reciprocity applicable in such cases. It will be very agreeable to him to find that the provision in question is intended merely to afford time for a satisfactory choice of a Plenipotentiary, successor to Mr. Jackson, and that the mode of carrying it into effect may be equally unexceptionable. But while, from the language of the Marquis Wellesley, with respect to the designation of a *Chargé d'Affaires*, and from the silence as to any other successor to the recalled Minister, it is left to be inferred that the former alone is in contemplation, it becomes proper to ascertain what are the real views of the British Government on the occasion; and, should they be such as they are inferred to be, to meet them by a correspondent change in the diplomatic establishment of the

United States at London. The President relies on your discretion for obtaining the requisite knowledge of this subject in a manner that will do justice to the friendly policy which the United States wish to be reciprocal in every instance between the two nations. But in the event of its appearing that the substitution of a *Chargé d'Affaires* for a Minister Plenipotentiary is to be of a continuance not required or explained by the occasion, and consequently justifying the inference drawn from the letter of Lord Wellesley, the respect which the United States owe to themselves will require that you return to the United States, according to the permission hereby given by the President, leaving charged with the business of the Legation such person as you may deem most fit for the trust. With this view, a commission, as required by a statute of the last session, is herewith enclosed, with a blank for a secretary of Legation. But this step you will not consider yourself as instructed to take in case you should have commenced, with a prospect of a satisfactory result, the negotiation authorized by my letter of the 20th January.

In a letter of the fourth of this month I transmitted to you a copy of the act of Congress at their last session concerning the commercial intercourse between the United States, and Great Britain and France. You will herewith receive another copy of the same act. In the fourth section of this statute you will perceive a new modification of the policy of the United States, and you will let it be understood by the British Government that this provision will be duly carried into effect on the part of the United States.

A satisfactory adjustment of the affair of the Chesapeake is very desirable. The views of the President upon this delicate subject, you may collect, not only from the instructions heretofore given to you, but from the sentiments that had been manifested on the part of this Government in the discussion with Mr. Rose, and from the terms and conditions contained in the arrangement made with Mr. Erskine. And conformably with these views, thus to be collected, you will consider yourself hereby instructed to negotiate and conclude an arrangement with the British Government in relation to the attack on the frigate Chesapeake.

I have the honor to be, &c.

R. SMITH.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, *June 13, 1810.*

I have not yet obtained from Lord Wellesley an answer to my letter of the 30th of April, concerning the British blockades of France before the date of the Berlin decree. In a short conference on Sunday last, the 10th instant, I pressed for a prompt and favorable reply, and shall perhaps receive it in the course of a few days. I had requested an interview on this subject on the 18th of last month, in consequence of a letter brought by Mr. Lee from General Armstrong, dated the 2d of May; but the state of Lord Wel-

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lesley's health prevented its taking place sooner than the 10th instant.

I have sent Mr. Craig (a young gentleman from Philadelphia) as a messenger to General Armstrong. He carries a newspaper copy of the late act of Congress respecting commercial intercourse.

I have prepared an official letter to you on the affair of the Chesapeake; but, as Mr. Erving leaves town for Liverpool in the morning, there is not time to copy it. It shall be forwarded, however, by Mr. Morier, who is about to sail in the British frigate *Venus* for New York; or sent to Liverpool to the care of Mr. Maury. In the mean time, it will be sufficient to state to you that I am expecting every day Lord Wellesley's written overture in that affair, and that, in our conferences, which resulted in an understanding that he would make such an overture, no objection was made by him to an engagement to restore the men to the ship from which they were forcibly taken, without the offensive reservation prescribed to Mr. Rose and Mr. Erskine, and contained in Mr. Jackson's project; to offer a suitable provision, without any reservation, for the families of the sufferers, as a part of the terms of satisfaction; to forbear all reference, in the papers leading to or containing the arrangement, to the President's proclamation, or to anything connected with it; to adopt in those papers a style and manner not only respectful but kind to our Government; to recite in them (as in Mr. Erskine's letter to you in April, 1809) that Admiral Berkeley had been promptly disavowed, and, as a mark of His Britannic Majesty's displeasure, recalled from an important command. I have met, on this occasion, with nothing of a discouraging nature, except on the impracticable point of the trial and punishment of the offending officer. On that point it is impossible to prevail; but there will be no objection to my declaring, in a reply to the overture, the expectation of the American Government, that the officer shall be tried and punished, or to a rejoinder, (if I wish it,) on the part of Lord Wellesley, suggesting, in a friendly way, the reasons for not fulfilling that expectation.

Mr. Pinkney to Mr. Smith.

LONDON, June 26, 1810.

SIR: Lord Wellesley's answer to my letter of the 30th of April, concerning the British blockades of France anterior to the Berlin decree being still delayed, I have sent him the letter of the 23d instant, of which a copy is now transmitted.

I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of June 26, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

June 23, 1810.

MY LORD: I beg to recall your Lordship's attention to the subject of the letter which I had the honor to address to you on the 30th of April

last, concerning the British blockades of France anterior to the Berlin decree.

My Government expects from me a communication on that subject; and your Lordship will, I am sure, take pleasure in enabling me, with as little delay as possible, to fulfil that expectation in a satisfactory manner.

I feel confident that, after the declaration of France, which I had the honor to state to your Lordship in that letter, and to mention in conference before and since its date, there will be no difficulty on the part of His Majesty's Government in revoking these blockades, or declaring that they are no longer in existence.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, July 1, 1810.

SIR: I have this day had the honor to receive your letter of the 23d [22d] of May, by Mr. Parish, and have sent a note to Lord Wellesley, requesting an interview; he is out of town, but will return to night or in the morning. The instructions contained in your letter concerning the inequality, supposed to be intended by this Government in the state of our diplomatic relations, shall be executed with the discretion which undoubtedly they require; and I am persuaded that the result will be perfectly satisfactory to the President. In the mean time, I think I can undertake to assure you that no change has taken place in the opinion of Lord Wellesley, as announced in my private letter to you of 4th January, that a Minister Plenipotentiary of rank should be sent to the United States. Certainly, no idea has been entertained here of a permanent or long-continued *Chargé d'Affaires*. It could only be intended to send one in the first instance; and I have reason to be confident that, for some time past, it has been in agitation to appoint a Minister Plenipotentiary without delay; that Lord Wellesley has, in fact, thought of and mentioned a person; and that Mr. Morier's departure has been put off in consequence.

In the case of the Chesapeake, I have already stated to you that I think there will be no difficulty, if the further punishment of Berkeley is not made on our part a *sine qua non*. Your instructions are very clear, that this is not to be peremptorily insisted on.

I have nothing to add to my communication of the 26th ultimo, concerning the British blockades of France before the Berlin decree, except that I mean to press Lord Wellesley on that subject at our next interview, as I did at our last. I shall not fail, at the same time, to draw his attention to the Orders in Council and the intercourse act.

I need scarcely say that, if events should make it proper for me, in obedience to the President's commands, to return to America, (leaving a *Chargé d'Affaires*.) I shall lose no time in doing so. I have the honor to be, &c.

WILLIAM PINKNEY.

ROBERT SMITH, Esq., &c.

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Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE.

July 2, 1810.

SIR: Your several letters of the 8th and 9th of April, and the 2d and 3d of May, have been received.

Whilst it was not known, on the one hand, how far the French Government would adhere to the apparent import of the condition, as first communicated, on which the Berlin decree would be revoked, and, on the other hand, what explanations would be given by the British Government with respect to its blockades prior to that decree, the course deemed proper to be taken was that pointed out in my letter to you of the 11th of November, and in that to General Armstrong, of the 1st of December. The precise and formal declaration since made by the French Government, that the condition was limited to the blockades of France, or parts of France, of a date prior to the date of the Berlin decree, and the acknowledgment of the British Government of the existence of such blockades, particularly that of May, 1806, with a failure to revoke it, or even to admit the constructive extinguishment of it, held out in your letter to the Marquis Wellesley, give to the subject a new aspect and a decided character.

As the British Government had constantly alleged that the Berlin decree was the original aggression on our neutral commerce, that her Orders in Council were but a retaliation on that decree, and had, moreover, on that ground, asserted an obligation on the United States to take effectual measures against the decree as a preliminary to a repeal of the orders, nothing could be more reasonable than to expect that the condition, in the shape last presented, would be readily accepted. The President is therefore equally disappointed and dissatisfied at the abortiveness of your correspondence with Lord Wellesley on this important subject. He entirely approves the determination you took to resume it with a view to the special and immediate obligation lying on the British Government to cancel the illegal blockades; and you are instructed, in case the answer to your letter of the 30th of April should not be satisfactory, to represent to the British Government, in terms temperate but explicit, that the United States consider themselves authorized by strict and unquestionable right, as well as supported by the principles heretofore applied by Great Britain to the case, in claiming and expecting a revocation of the illegal blockades of France of a date prior to that of the Berlin decree, as preparatory to a further demand of the revocation of that decree.

It ought not to be presumed that the British Government, in reply to such a representation, will contend that a blockade like that of May, 1806, from the Elbe to Brest, a coast not less than one thousand miles, proclaimed four years since, without having been at any time attempted to be duly executed by the application of a naval force, is a blockade conformable to the law of nations,

and consistent with neutral rights. Such a pretext is completely barred, not only by the unanimous authorities both of writers and of treaties on this point, not excepting even British treaties; but by the rule of blockade communicated by that Government to this in the year 1804, in which it is laid down, that orders had been given not to consider any blockade of those islands (Martinique and Guadaloupe) as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they (the Lords of the Admiralty) had also sent the necessary directions on the subject to the Judges of the Vice-Admiralty Courts in the West Indies and America. In this communication it is expressly stated that the rule to the British courts and cruisers was furnished in consequence of the representations made by the Government of the United States against blockades, not unlike that now in question, and with the express view of redressing the grievance complained of. Nor ought it to be presumed that the British Government will finally resort to the plea that her naval force, although unapplied, is adequate to the enforcement of the blockade of May, 1806; and that this forms a legal distinction between that and the Berlin decree of November following. Were it admitted that an adequate force existed, and was applicable to such a purpose, the absurdity of confounding the power to do a thing with actually doing of it speaks for itself. In the present case the absurdity is peculiarly striking. A port blockaded by sea, without a ship near it, being a contradiction in terms, as well as a perversion of law and of common sense.

From the language of Lord Wellesley's two letters it is possible he may endeavor to evade the measure required by subtle comments on the posture given to the blockade of May, 1806, by the succeeding orders of 1807. But even here he is met by the case of the blockade of Copenhagen and the other ports of Zealand in the year 1808; at a time when these, with all Danish ports, were embraced by those very orders of 1807; a proof that, however the orders and blockades may be regarded as in some respects the same, they are regarded in others as having a distinct operation, and may, consequently, co-exist, being absolutely merged in or superseded the one by the other.

In the difficulty which the British Government must feel in finding a gloss for the extravagant principle of her paper blockades, it may perhaps wish to infer an acquiescence on the part of this Government, from the silence under which they have, in some instances, passed. Should a disposition to draw such an inference show itself, you will be able to meet it by an appeal, not only to the successful remonstrance in the letter to Mr. Thornton above cited, but to the answer given to Mr. Merry of June, 1806, to the notification of a blockade in the year 1806, as a precise and authentic record of the light in which such blockades and the notification of them were viewed by

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the United States. Copies of the answer have been heretofore forwarded, and another is now enclosed as an additional precaution against mis-carriage.

Whatever may be the answer to the representation and requisition which you are instructed to make, you will transmit it without delay to this Department. Should it be of a satisfactory nature, you will hasten to forward it also to the diplomatic functionary of the United States at Paris, who will be instructed to make a proper use of it for obtaining a repeal of the French decree of Berlin, and to proceed concurrently with you in bringing about successive removals by the two Governments of all their predatory edicts. I avail myself of this occasion to state to you, that it is deemed of great importance that our Ministers at foreign Courts, and especially at Paris and London, should be kept, the one by the other informed of the state of our affairs at each. I have the honor to be, &c.

R. SMITH.

WILLIAM PINKNEY, Esq. &c.

[Referred to in the letter of Mr. Pinkney, Sept. 21, 1810.]  
Mr. Madison to Mr. Thornton, Chargé des Affaires of His Britannic Majesty.

DEPARTMENT OF STATE,

October 27, 1803.

SIR: The letters, of which copies are enclosed, were received last evening. One of them is from the British Consul General at New York; the other, a copy enclosed therein, of a letter to him from Commodore Hood, Commander-in-Chief of His Britannic Majesty's ships of war on the West India station. The letter bears date of the 25th of July last, and requests that the American Government, and agents of neutral nations, might be made acquainted that the islands of Martinique and Guadaloupe are, and have been, blockaded from the 17th of June preceding, by detachments from the squadron under his command, in order that there may be no plea for attempting to enter the ports of the islands.

It will no doubt, occur to you, sir, that such a communication would have been more properly made through another channel, than directly from the Consulate at New York. The importance and urgency of the subject, however, supersede the consideration of forms, and I lose no time in communicating to you the observations which the President deems it to require.

It will not escape your attention, that Commodore Hood's letter is dated no less than three months before it could have the effect of a notification; and that, besides this remarkable delay, the alleged blockade is computed from a date more than one month prior to that of the letter itself. But those circumstances, however important they may be, do not constitute the main objection to the proceeding of the British commander. His letter, instead of stating that a particular port or ports were blockaded by a force actually before them, declares, generally, two entire and considerable islands to be in a state of blockade. It can never be admitted that the trade of a neutral na-

tion, in articles not contraband, can be legally obstructed to any place not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is, perhaps, more clear on no other point than that of a siege or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term used in defining the case, imports the presence and position of a force rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation who treats with precision this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force, so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the fourth article of the convention of June, 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "of settling an invariable determination of their principles, upon the rights of neutrality," must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following, viz: "That in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the Power which attacks it with ships stationary or sufficiently near, an evident danger of entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade declared by Commodore Hood, with the principle laid down concerning the rights of neutrality, or on the consequences of the principle on which a blockade of whole islands, by a few ships, is founded, to the commerce and interests of neutral nations. If the islands of Martinique and Guadaloupe, the latter not less than two hundred and fifty, and the former nearly one hundred and fifty miles in circumference, and each containing a variety of ports, can be blockaded by detachments from a commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word, such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by officers, at a distance from the control of their Government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, sir, from these observations, the serious light in which the President regards the proceeding, which is the subject of them, and will perceive the grounds on which the injuries accruing from



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it to our commerce, will constitute just claims of indemnification from the British Government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort, which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motives with you to employ the interpositions with Commodore Hood which you may judge best adapted to the nature of the case.

I have the honor to be, &c.

JAMES MADISON.

EDWARD THORNTON, Esq.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

July 5, 1810.

SIR: Your last communications having afforded so little ground for expecting that the British Government will have yielded to the call on it to originate the annulment of the belligerent edicts against our lawful commerce, by cancelling the spurious blockade of May, 1806, (the first in the series,) it became a duty particularly incumbent upon us to press the other experiment held out in the late act of Congress, another copy of which is herewith sent. You will accordingly make that act, and the disposition of the President to give it effect, the subject of a formal communication.

The British Government ought not to be insensible of the tendency of superadding to a refusal of the course proposed by France for mutually abolishing the predatory edicts, a refusal held out by Congress; and it ought to find, in that consideration, a sufficient inducement to a prompt and cordial concurrence. The British Government must be conscious, also, of its having repeatedly stated that the acquiescence by the United States in the decrees of France was the only justification of its orders against our neutral commerce. The sincerity and consistency of Great Britain being now brought to the test, an opportunity is afforded to evince the existence of both. It may be added, that the form in which it is prescribed is as conciliatory as the proposal itself is unexceptionable.

As the act of Congress repealing the late restrictions on the commerce of the United States with two belligerents must be unequal in its operation, in case Great Britain should continue to interrupt it with France, inasmuch as France is unable to interrupt it materially with her, the British Government may feel a temptation to decline a course which might put an end to this advantage. But if the unworthiness and unfriendliness of such a purpose should not divert her from it, she ought not to overlook either the opportunity afforded her enemy of retorting the inequality, by a previous compliance with the act of Congress, or the necessity to which the United States may be driven by such abuse of their amicable advances, to resume, under new impressions, the subject of their foreign relations.

If the British Government should be disposed

to meet, in a favorable manner, the arrangement tendered, and should ask for explanations as to the extent of the repeal of the French decrees, which will be required, your answer will be as obvious as it must be satisfactory. The repeal must embrace every part of the French decrees which violate the neutral rights guaranteed to us by the law of nations. Whatever parts of the decrees may not have this effect, as we have no right as a neutral nation to demand a recall of them, Great Britain can have no pretext, as a belligerent nation, to urge the demand. If there be parts of the decrees liable to objections of another kind, it lies with the United States alone to decide on the mode of proceeding with respect to them.

In explaining the extent of the repeal, which on the British side, is required, you will be guided by the same principle. You will accordingly let it be distinctly understood, that it must necessarily include an annulment of the blockade, of May, 1806, which has been avowed to be comprehended in, and identified with, the Orders in Council, and which is palpably at variance with the law of nations. This is the explanation which will be given to the French Government on this point by our Minister at Paris, in case it should there be required.

But there are plain and powerful reasons why the British Government ought to revoke every other blockade resting on proclamations, or diplomatic notifications, and not on the actual application of a naval force adequate to a real blockade.

1st. This comprehensive redress is equally due from the British Government to its professed respect for the law of nations, and to the just claims of a friendly Power.

2d. Without this enlightened precaution, it is probable, and may indeed be inferred from the letter of the Duke of Cadore to General Armstrong, that the French Government will draw Great Britain and the United States to issue on the legality of such blockades, by acceding to the act of Congress, with a condition that a repeal of the blockades shall accompany a repeal of the Orders in Council, alleging that the orders and blockades, differing little, if at all, otherwise than in name, a repeal of the former, leaving in operation the latter, would be a mere illusion.

3d. If it were even to happen that a mutual repeal of the orders and decrees could be brought about without involving the subject of blockades, and with a continuance of the blockades in operation, how could the United States be expected to forbear an immediate call for their annulment? or how long would it probably be before an appeal by France to the neutral law of impartiality would bring up the same question between the United States and Great Britain? And from whatever circumstances the issue on it may arise, the impossibility of maintaining the British side, with even a color of right or consistency, may be seen in the view taken of the subject in the correspondence with Mr. Thornton and Mr. Merry, already in your hands.

If the British Government should accede to the

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overture contained in the act of Congress, by repealing or so modifying its edicts as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to General Armstrong, and, if necessary, by a special messenger, and you will hasten to transmit it also to this Department. With great respect, &c.

R. SMITH.

WILLIAM PINKNEY, Esq.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,  
July 17, 1810.

SIR: You will herewith receive duplicates of my letters to you of the 13th, 16th, and 30th June, and 2d and 5th of July.

This despatch you will receive from Lieutenant Spence of the Navy, who is to proceed from New York in the sloop of war the *Hornet*. This public vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you, and to our functionary at Paris, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this Department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the Governments of England and France. And with a view to insure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the 1st day of October next. With respect, therefore, to the time you will detain Mr. Spence in London, you will be influenced by the information which you may receive from him as to the orders he may have from the commanding officer of the *Hornet*. I have the honor to be, &c.

R. SMITH.

WILLIAM PINKNEY, Esq.

Mr. Pinkney to Mr. Smith,

LONDON, July 23, 1810.

SIR: I followed up the conversation with Lord Wellesley, mentioned in my letter of the 6th instant, with a short note, of which a copy is enclosed, requesting information concerning the intention of this Government to send a Minister Plenipotentiary, without delay, to the United States, as the successor of Mr. Jackson.

Reflection seems to have suggested to Lord Wellesley some objections, which did not occur in the course of our conference, to giving this information in an official manner.

I was aware of this on Saturday last, but was not willing to forego a written communication on a matter which had taken a character of some delicacy and importance.

Lord Wellesley has endeavored to avoid his own difficulty and mine, by sending me the letter (marked "private") of which I have now the honor to transmit a copy.

As this letter is in conformity with his verbal assurances in conferences, and appears to leave no reasonable doubt upon the point to which it relates, I do not suppose that I can properly un-

dertake to question its sufficiency, either by pressing for a more formal communication, or by taking the step which your instructions of the 23d of May, in certain circumstances, prescribe to me.

I still believe that the affair of the Chesapeake will very soon be brought to a conclusion.

I have the honor to acknowledge the receipt (on the 21st instant, by Mr. Henry Izard,) of your letters of 13th and 16th of last month; and I take this opportunity to thank you for the private letter of the 5th ultimo, received at the same time. I have the honor to be, &c.

WILLIAM PINKNEY.

Hon. ROBERT SMITH, &c.

[Enclosed in Mr. Pinkney's despatch of July 23.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, July 7, 1810.

MY LORD: In pursuance of the conversation which I had the honor to hold with your Lordship on the 6th instant, I take the liberty to request information, which I am sure will be readily given, concerning the intention of His Majesty's Government to send a Minister Plenipotentiary to the United States, as the successor of Mr. Jackson.

I have no doubt that it is intended to send such a successor without delay, as one of the means of restoring and maintaining the friendly relations of the two countries; but I shall, nevertheless, be glad to be authorized by your Lordship to make a communication to that effect to my Government. I have the honor to be, &c.

WILLIAM PINKNEY.

The MARQUIS WELLESLEY, &c.

[Referred to in Mr. Pinkney's despatch of July 23.]

Lord Wellesley to Mr. Pinkney.

APSLEY HOUSE, July 22, 1810.

SIR: I think it may be difficult to enter upon the subject of your last note, (respecting the diplomatic rank of our Minister in America,) in any official form.

But I have no difficulty in assuring you, that it is my intention immediately to recommend the appointment of an Envoy Extraordinary and Minister Plenipotentiary from the King to the United States.

I have the honor to be, &c.

WELLESLEY.

WILLIAM PINKNEY, Esq., &c.

Mr. Pinkney to Mr. Smith.

LONDON, August 14, 1810.

SIR: As Lord Wellesley still withheld his long-expected answer to my note of the 30th of April, respecting the British blockades anterior to the Berlin decree, and his written overture in the case of the Chesapeake, I sent him on the 8th instant a letter, of which a copy is enclosed. No importunity had before been spared which it became me to use.

I need not trouble you with comments on the obvious unwillingness of this Government to

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touch the first mentioned subject, or anything connected with its principles and practice respecting blockades, or with the system of the Orders in Council. Justice and policy both invite it to give the declaration which I have required; and certainly nothing has been omitted on my part to induce it to take that course. I fear, however, that the declaration will be declined, unless, indeed, Lord Wellesley should continue to evade my application, by returning no answer to it—a new practice, I think, which, little to be commended as it is, must, I presume, if persisted in here, be reciprocated in America.

It is truly surprising that, in the case of the Chesapeake, there should be the same backwardness. I can conjecture no motive for this hesitation to propose, in writing, terms arranged in conference between Lord Wellesley and myself, in an affair which it is the manifest interest of England to settle as soon as possible. It is now almost six weeks since Lord Wellesley last assured me (as he had before more than once assured me) that he would put me in possession of his formal overture in this case *immediately*. He knows that you have been made officially acquainted with that assurance; for I thought it advisable to submit to his perusal before it was transmitted (for the purpose principally of avoiding misunderstandings) my short letter to you of the 6th of last month, which states, that “in the business of the Chesapeake, he will write to me in a few days;” and further, that in that business “I do not expect any difficulty.”

There can be no misconception as to the terms to be offered; for, besides that they were stated with great precision in the conference alluded to in my letter to you of the 6th ultimo, as well as in several antecedent interviews, I wrote Lord Wellesley, the day after that conference, a private note, of which a copy is now transmitted, enclosing a memorandum in pencil of the terms which (exclusive of any further mark of displeasure to Admiral Berkeley, very decidedly discouraged by Lord Wellesley) “had been spoken of in our different conversations as fit to be proposed.” I do not find that I retained any copy of the memorandum in pencil; but the terms (agreeing in substance with those to which I informed you, in my letter of the 13th of June last, Lord Wellesley had no objection,) were to this effect:

1st. The overture to contain such a recital, or statement, as is found in Mr. Erskine's letter to you of the 17th April, 1809, of the prompt disavowal by His Britannic Majesty of the unauthorized act of his naval officer, whose recall, as a mark of the King's displeasure, from a highly important and honorable command, immediately ensued.

2d. To offer without any reservation the restoration of the men to the ships from which they were forcibly taken.

3d. To offer without any reservation, and as part of the terms of the international adjustment, a suitable pecuniary provision for the families of the persons slain in the attack, and for the wounded survivors.

It was moreover understood, that the paper proffering these terms would not contain the allusions which have heretofore occasioned embarrassment; that the whole affair would be made to take the most friendly character; and that I should be at liberty to express in my reply to the overture, if I thought fit, the expectation of my Government as to the further punishment of Admiral Berkeley.

I ought to add that, in all my conversations with Lord Wellesley on the case of the Chesapeake, he has shown not only a disposition but a wish to accommodate it, and that I am, therefore, the more astonished at the delay which has taken place.

In a few days I intend to renew my efforts to a conclusion, and to obtain an answer of some sort to my letter of the 30th of April. I am sufficiently inclined to present a strong paper upon both subjects; but in the actual posture of affairs, and in the absence of such instructions from you as would countenance such a step, I think it my duty to forbear a little longer.

It is not impossible that Lord Wellesley's backwardness to close the case of the Chesapeake with me, may arise from a desire that it should be adjusted in America through the new Minister. If this were so, however, he could have no inducement to conceal it from me, since he is aware that I have always entertained the same desire.

When I see him I will advert to this. I am not yet able to say positively who the new Minister will be. Lord ——— and some others are spoken of. Lord Wellesley has given me no other written information on the subject than is contained in his letter of the 22d ultimo, already communicated to you. His verbal information has been of the same effect, with this addition, that he retained his opinion (mentioned in my unofficial letter to you of the 4th of January last,) that the Minister to America ought to be a man of rank. As far as may be prudent, I shall not fail to do all that is in my power to expedite the appointment.

The letter from General Armstrong, to which my letter of the 8th instant to Lord Wellesley alludes, is dated the 24th of July; and expresses his wish that the declaration of the British Government concerning the blockades may be obtained and forwarded without delay.

I have the honor, &c.

WILLIAM PINKNEY.

Hon. ROBERT SMITH, &c.

Mr. Pinkney to Mr. Smith.

LONDON, August 18, 1810.

SIR: I enclose the “Times” newspaper of this morning, containing a copy of a French decree of the 8th instant, and of a letter of the same date from the French Minister for Foreign Affairs to General Armstrong. The last is a most important paper, of which I hope to receive, without delay, an official communication.

I have the honor to be, &c.

WILLIAM PINKNEY.

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Mr. Pinkney to Mr. Smith.

LONDON, August 21, 1810.

SIR: I have just received a communication from General Armstrong, dated the 6th instant, announcing the absolute revocation of the Berlin and Milan decrees, and have, in consequence, sent a note to Lord Wellesley, requesting to see him: Lord Wellesley is out of town, but will, it is said, return to-night or to-morrow morning.

General Armstrong has not transmitted any copy of the official notice mentioned in his letter; but, I presume, it is the same with that published in the "Monitor" of the 9th, of which I am in possession, and with which the quotation in General Armstrong's letter agrees.

I do not know whether his construction of that document will be thought here to be liable to any objections. I think it impossible, however, that, upon any interpretation of it, this Government can hesitate to repeal its Orders in Council.

A copy of General Armstrong's letter to me is enclosed: I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in the preceding letter.]

Copy of General Armstrong's letter to Mr. Pinkney.

PARIS, August 6, 1810.

SIR: I have the honor to inform you that His Majesty, the Emperor and King, has been pleased to revoke his decrees of Berlin and Milan. Of this interesting fact I had this morning a written and official notice in the following words, viz: "Je suis autorisé à vous déclarer, monsieur, que les décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre ils cesseront d'avoir leur effet."\*

Sincerely hoping that you may be able to turn this circumstance to some useful account, I forward it per triplicate.

I am, sir, with great respect, &c.

[\*TRANSLATION.]

I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect.

[This note was received at the Department of State on the 11th of November.]

[Referred to in Mr. Pinkney's despatch, Aug. 21, 1810.]  
General Armstrong to Mr. Pinkney.

PARIS, August 7, 1810.

SIR: I hazarded a line or two yesterday, by the way of Morlaix, merely to inform you that the Imperial decrees of Berlin and Milan were at last given up. I now send you, by a more direct conveyance, a copy of the Duke of Cadore's letter to me of the 5th instant.

I am, sir, with great respect, &c.

JOHN ARMSTRONG.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, Friday, August 24, 1810.

I transmit a copy of my answer, formed upon your recent instructions, to Lord Wellesley's notification of the blockade of Corfu. Is it not worthy of reflection, whether an attempt to blockade an entire sea like the Adriatic should not be protested against, whatever may be the force employed in closing the passage to it?

[Referred to in Mr. Pinkney's despatch of August 24.]  
From Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

August 21, 1810.

MY LORD: I have had the honor to receive your official note of the 18th instant, communicating the resolution of the British Government to establish a blockade of the canal of Corfu, and shall not fail to transmit a copy of it, with as little delay as possible, to the Secretary of State of the United States.

In the mean time I take the liberty, in pursuance of the sentiments of the President heretofore signified to me, to observe to your Lordship that, as a blockade essentially implies a force on the spot for the purpose, and as the notification required in the case must be a warning to neutral traders of the fact that a blockade exists, the communication which your Lordship has made to me derives its title to the acknowledgment of the United States from the supposition that it was meant as a friendly premonition, which, though imposing of itself no legal restraint on neutrals, nor inducing any penal consequences, might usefully influence the course of their mercantile expeditions. In this sense the communication will be received by the President, as a mark of that friendly attention which ought, in all cases, to be reciprocally maintained; and in this sense the President will be the more disposed to regard the communication, as a different one would contradict the definition of a blockade, and of the requisite notification thereof, contained in the orders of the British Government to Commodore Hood and the Judges of the Vice Admiralty Courts, as communicated to the American Government by Mr. Merry, on the 12th of April, 1804.

I have the honor to be, &c.

WM. PINKNEY.

THE MARQUIS OF WELLESLEY, &amp;c.

[Referred to in Mr. Pinkney's letter of Sept. 3, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

August 25, 1810.

MY LORD: I have the honor to state to your Lordship that I have received from General Armstrong, Minister Plenipotentiary of the United States at Paris, a letter, bearing date the 6th instant, in which he informs me that the Government of France has revoked the decrees of Berlin and Milan, and that he has received a written and official notice of that fact in the following words: "Je suis autorisé à vous déclarer, que les décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre ils cesseront d'avoir leur effet."

I take for granted that the revocation of the British Orders in Council of January and November, 1807, and April, 1809, and of all other orders

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dependent upon, analogous to, or in execution of them, will follow of course; and I shall hope to be enabled by your Lordship, with as little delay as possible, to announce to my Government that such revocation has taken place.

I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

LONDON, August 29, 1810.

SIR: I dined yesterday with Lord Wellesley, and found that he had only returned to town in the morning. He still complained of indisposition, but it certainly could not be considered as unfitting him for business. In a short conversation before dinner, he told me that my note respecting the Berlin and Milan decrees should be mentioned to his colleagues to-day; and that I should have an immediate answer; that the affair of the Chesapeake "would be settled to my satisfaction;" that he believed he should recommend to the King the appointment of a Minister Plenipotentiary to the United States either this week or the next; that he had two persons in his eye, (both men of high rank,) but that he could not with propriety name them to me at present. As far as the opportunity permitted, I urged promptitude on all these subjects as indispensable, and expressed my confidence that they would be disposed of in season for the approaching meeting of Congress.

You perceive that, notwithstanding past promises, nothing has yet been done, and that there is no security that we shall have anything but promises. I am truly disgusted with this; and would, if I followed my own inclination, put a speedy end to it. It is better, however, to do nothing of an irritating nature, until this Government has had full time to act upon my note of the 25th. Even if it should decline to repeal the Orders in Council, (which I am told is quite possible,) a moderate course on my part will have the recommendation of putting it more clearly in the wrong.

If it should decline to repeal, the President may be assured that I will not fail to present such a paper as conduct so extraordinary will demand; and, if further delays are effected, that I shall remonstrate in very decided terms.

I have the honor to be, &c.

WM. PINKNEY.

HON. ROBERT SMITH.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, August 31, 1810.

SIR: I have the honor to acknowledge the receipt of your letter under date the 25th instant.

On the 23d of February, 1808, His Majesty's Minister in America declared to the Government of the United States "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system

which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary."

I am commanded by His Majesty to repeat that declaration, and to assure you that whenever the repeal of the French decrees shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq.

Mr. Pinkney to Mr. Smith.

LONDON, September 3, 1810.

SIR: Lord Wellesley sent me his answer yesterday to my note of the 25th ultimo, respecting the Berlin and Milan decrees. I hasten to transmit a copy of it. A copy shall be sent without delay to General Armstrong.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Armstrong.

LONDON, September 3, 1810.

SIR: I received yesterday from Lord Wellesley, an answer, dated the 31st of last month, to my note of the 25th, in which I communicated to him the purport of your letter to me of the 6th, respecting the Berlin and Milan decrees; and I hasten to put you in possession (by a special messenger) of a copy of each of those papers, to be used according to your discretion.

It is extremely desirable that I should have, without loss of time, the benefit of such reflections upon this answer as you may be disposed to favor me with, and of such information, calculated to regulate my course with regard to it, as your local position may enable you to furnish.

Your letters of the 6th and 7th ultimo concur in representing, (with perfect propriety, I think,) that the revocation of the Berlin and Milan decrees is to take effect *absolutely* after the 1st of November, and I have so put it to the British Government. You will let me know if any error (which I do not in the least suspect) has been discovered in this representation, or if it is necessary that the subject should be brought before this Government in any other form than that which, looking to your representation, I have chosen.

You will perceive that the pledge contained in Lord Wellesley's answer is referred to the period when the repeal of the French edicts shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which those edicts found it. In case there is nothing equivocal in these last expressions, the pledge is, I presume, sufficient for the present, if the recall of the French decrees does not depend on a condition precedent, as some

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have supposed. If, on the other hand, it is understood that, before the French repeal is to take effect, namely, before the 1st or 2d of November, Great Britain must revoke her Orders in Council, so that the orders shall cease to operate at the same moment with the decrees; or, if it is understood that the British blockades, to which France objects, (that of May, 1806, for example,) must be recalled, or declared not to be in force, before the same period; then, undoubtedly, the pledge is nothing. If the pledge is sufficient, we have only to let the matter rest until November. If it is insufficient, I cannot be too soon employed in taking a new course.

I ought to mention, however, that I am now preparing a note to Lord Wellesley, to be presented in a few days, concerning the blockades. This step is proper, and, I think, indispensable, whether the revocation of the decrees of France depends upon those blockades being put out of the way or not.

Begging you to let me hear from you as soon as convenient, I am, sir, with great respect and consideration, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, *September 4, 1810.*

SIR: I have just received your letters by Lieutenant Spence. Their dates are as follows: 17th July, 1810; 5th July, (original and duplicate); 2d July, (original and duplicate); 30th June, (original and duplicate); 16th June, (duplicate, the original had been received before); 13th June, (duplicate, the original had already been received.)

I have only time to add, that the repeal of the French decrees (as communicated to me by General Armstrong,) and the reply of Lord Wellesley of the 31st ult., to my communication on that subject, do not appear to me to take away the necessity of executing the instructions contained in your letters of the 2d and 5th of July, relative to the British blockades, although they may affect the manner of executing those instructions. The note, which I intend to present on this occasion, will be ready in a day or two, and shall be sent in immediately. I have the honor to be, &c.

WM. PINKNEY.

P. S. Lord Wellesley sent me a message yesterday, through Mr. Hamilton, that, if I still wished to see him on the subject of my late communication, he would receive me to-day. I replied that I had no wish to see him on that subject, but that it might be necessary to write him a note upon it hereafter. I mean to confine myself as much as possible to written intercourse with Lord Wellesley.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, *September 7, 1810.*

SIR: It has been supposed here, that the notification of a blockade of the "Canal of Corfu," on

the 18th of last month, was intended to close the Adriatic; and the English newspapers, as you will have perceived, so represented it. In my letter to you of the 20th ult., communicating a copy of that notification, I have adopted this construction, which now appears to be erroneous. The "canal," to which the notification is now understood to apply, is the narrow passage to the eastward of Corfu.

I have the honor to be, &c.

WM. PINKNEY.

ROBERT SMITH, Esq., &c.

Mr. Pinkney to Mr. Smith.

LONDON, *September 15, 1810.*

SIR: I send, enclosed, a copy of a second letter which I have written to Lord Wellesley, respecting the stoppage of American vessels attempting to pass the Sound, together with a copy of the protest of the master of the American ship Alert, mentioned in that letter, which is well entitled to your attention. I have the honor to be, &c.

WM. PINKNEY.

[Referred to in Mr. Pinkney's letter of Sept. 15, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,  
*September 15, 1810.*

MY LORD: In my note of the 1st instant, I had the honor to inform your Lordship, that it had been stated to me, in a letter from Gottenburg, that, in consequence of some misconception of the effect of the order for establishing a blockade of Elsinore in May last, American vessels had recently been prevented from passing the Sound by the English naval force in that quarter; and I requested, that, if this statement was correct, such explanations might be transmitted to the British Commander, as might, at least, confine the blockade in question to the port against which it had been professedly instituted.

As I have not received any answer to that note, and, consequently, do not know whether any order has been given to remove the interruption which it mentions, I feel it to be necessary to lay before your Lordship the enclosed original protest of the master of the American ship Alert, which appears to establish the existence of that interruption in a form as exceptionable as it could possibly assume.

Whatever may be the ground upon which Sir James Saumarez has thought fit to issue his orders to close the passage of the Sound to American vessels, returning in the prosecution of a lawful trade to the United States, or proceeding in a contrary direction, your Lordship will, I am persuaded, think with me, that my Government has a fair claim to be made acquainted, either through me, or through such other channel as your Lordship may deem more proper, with the intentions of the British Government on the subject.

Before I conclude this letter, I must call your Lordship's attention to the particular circumstances of the case which has mainly produced

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it, and to the redress which those circumstances plainly require.

The Alert has been seized and sent to England by the Africa for *salvage*. The peril from which she was saved—if she was saved from any peril—was created by the injustice of the capturing vessel, in turning her from the regular course of her homeward voyage.

That the commander of the Africa, or those under whom he acted, should be responsible to the utmost for the loss occasioned by that injustice, seems to be perfectly reasonable; but it is difficult to imagine in what way he can expect to derive from it a right to inflame the loss for his own advantage. I trust that the attempt will be repressed in a suitable manner, and that, in place of salvage to be paid by the injured neutral, compensation will, in some mode or other, be awarded to him for the damages he has been made to sustain.

The impressment, on board the Alert, of four American seamen by the Africa, cannot be passed unnoticed. This abuse could not fail to be interesting under any circumstances; but, on this occasion, (supposing the enclosed narrative to be true,) it is not only characterized by an utter disregard of the rights of the American Government, and by the oppression of its citizens, but is practised under a show of friendly protection, and aggravated by every practical wrong which could well be associated with it.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,  
September 21, 1810.

MY LORD: On the 30th of April last, I had the honor to address a note to your Lordship, in which, upon the inducements which it stated, I took the liberty to inquire whether there was any objection, on the part of His Majesty's Government, to a revocation, or to a declaration that they were no longer in force, of the British blockades of France, of a date anterior to the Berlin decree.

In a second note, of the 23d of June, I had the honor to recall your Lordship's attention to that inquiry, and to add that my Government expected from me a communication upon it. And on the 8th of August, it was again brought to your Lordship's recollection in the same mode. It was, moreover, mentioned in several conversations after the delivery of my first note, which had, in fact, been preceded by verbal explanations on my part, as well as by an abortive correspondence in writing, to which some of those explanations were preparatory.

If I had been so fortunate as to obtain for my hitherto unanswered inquiry, the notice which I had flattered myself it might receive, and to which I certainly thought it was recommended by the plainest considerations of policy and justice, it would not, perhaps, have been necessary for me to trouble your Lordship with this letter, the pur-

pose of which is in very few words to remind His Majesty's Government, in pursuance of my instructions, of the sentiments and expectations of the Government of the United States, respecting such blockades as that which my inquiry principally regarded.

Those sentiments and expectations are so well explained in two letters, from Mr. Secretary Madison, of the 27th of October, 1803, to Mr. Thornton, and of the 3d of June, 1806, to Mr. Merry, that very little more is required, in the execution of my instructions on this occasion, than that I should refer your Lordship to the copies of those letters, which are herewith transmitted.

Your Lordship will perceive that the strong and conclusive objections, in law and reason, to be found in those papers, (especially in the first, which was occasioned by a communication from the British Consul at New York, of a notice from Cominodore Hood, in July, 1803, that the islands of Martinique and Gaudaloupe were, and for some time had been, blockaded,) apply to several blockades which Great Britain has lately pretended to establish; but in a particular manner to that of May, 1806, (from the Elbe to Brest, inclusive) to that in the spring of 1808, of the whole island of Zealand, and to that, in March, 1809, of the isles of Mauritius and Bourbon.

The Government of the United States can discover no just foundation for these and other similar attempts to blockade entire coasts, by notifications with which the fact has no correspondence. It views them as unwarrantable prohibitions of intercourse rather than regular blockades, and as resembling, in all their essential qualities, the extraordinary decrees and orders, which, for the last four years, have nearly obliterated every trace of the public law of the world, and discouraged by menaces of hostile interruption, and pursued with seizure and confiscation the fairest and most innocent trade of neutral merchants.

It may now be hoped that those decrees and orders are about to disappear forever; and I think I may presume that, as my Government expects, no blockade like that of May, 1806, will survive them.

Your Lordship has informed me, in a recent note, that it is "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity." And I cannot suppose that this freedom is understood to be consistent with vast constructive blockades, which may be so expanded at pleasure, as, without the aid of any new device, to oppress and annihilate every trade but that which England thinks fit to license. It is not, I am sure, to such freedom that your Lordship can be thought to allude.

I am the more inclined to be confident on this point, because I have now before me a well-known official exposition, conceived in terms the most exact, of the British doctrine of blockade, as it stood in 1804, contained in the reply of Mr. Merry, His Majesty's Minister in America, to the very able remonstrance above mentioned from Mr. Madison to Mr. Thornton.

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In that reply (of the 12th of April, 1804,) it is formally announced to the Government of the United States, "by His Majesty's command, signified to Mr. Merry by the principal Secretary of State for Foreign Affairs, that, for redressing the grievance complained of" by the American Government, orders had been sent to Commodore Hood (and the necessary directions given to the Vice-Admiralty Courts in the West Indies and America) "not to consider any blockade of the islands of Martinique and Gaudaloupe as existing, unless in respect of particular ports which might be actually invested; and then not to capture vessels bound to such ports, unless they should previously have been warned not to enter them."

It is natural to conclude; that, though the "grievance," which this frank communication condemns, has been since so often repeated, as almost to make us lose sight of the rule in the multitude of its violations, your Lordship could not speak of the restoration of the just freedom of commerce, as an event desired by Great Britain, without some reference to the neglected doctrine of this paper, and without some idea of reviving it.

With regard to the blockade of May, 1806, I regret that I have failed to obtain an admission, apparently warranted by facts, and invited by circumstances, that it is not in force.

Your Lordship's answers to my letters of the 15th of February and 7th of March last, appear to justify the opinion that this blockade sunk into the Orders in Council of 1807, with which it was perfectly congenial. It can scarcely be said, that, since the promulgation of those orders, there has been even a show of maintaining it, as an actual blockade, by a stationary force, adequate or inadequate, distributed with that view along the immense line of coast which it affected to embrace. And if it has not been constantly so maintained, nor even attempted to be maintained, as an actual blockade, but has yielded its functions since 1807 to Orders in Council, neither being, nor professing to be, actual blockades, it may, I imagine, be very safely asserted that it exists no longer.

But as this conclusion has not been adopted, but has rather been resisted by your Lordship, it is my duty, in transmitting the enclosed copy of an act of the Congress of the United States, passed on the 1st of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," to state to your Lordship that an annulment of the blockade of May, 1806, is considered by the President to be as indispensable, in the view of that act, as the revocation of the British Orders in Council. I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, September 28, 1810.

SIR; I have already sent you a copy of Lord Wellesley's reply to that part of my letter of the 15th instant which particularly respected the case of the *Alert*. The amount of that reply was, that

Government could not interfere, and that the case must be left to the Court of Admiralty.

I now transmit his answer to that part of my letter which regarded the effect of the blockade of Elsinore, (as it was interpreted by Sir James Saumarez,) on the passage of the Sound; from which it appears that it is not yet intended to close that passage.

No notice has been taken of the residue of my letter concerning the four American seamen taken from the *Alert*.

As I have transmitted you a copy of Lord Wellesley's reply to my application for the release of the *Mary*, from which it was to be inferred that she would be immediately released, I ought now to mention that, so far from being released, she is to be forthwith proceeded against as prize. These things require a large stock of patience.

I have the honor to be, &c.

WM. PINKNEY.

ROBT. SMITH, Esq. &c.

[Referred to and enclosed in the preceding.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, Sept. 26, 1810.

The Marquis Wellesley has the honor to acquaint Mr. Pinkney, in answer to that part of his letter of the 15th instant, relating to an alleged misconception of the Order in Council for the blockade of Elsinore, that it is the intention of His Majesty's Government that that blockade should be strictly confined to the port of Elsinore, and that it does not affect any vessels professedly bound up the Sound, unless it should appear from their papers that they are bound to Elsinore.

The Marquis Wellesley begs to renew to Mr. Pinkney the assurance of his high consideration.

WM. PINKNEY, Esq. &c.

Mr. Pinkney to Mr. Smith.

LONDON, Oct. 3, 1810.

SIR: Lord Wellesley's communication concerning the passage of the Sound was supposed, by a merchant here to whom I showed it, to be ambiguous, by reason of the expressions "bound up the Sound," &c.

The ambiguity has, however, been removed (if, indeed, there was any) by a note which I have just received from the Foreign Office in answer to one from me.

It says that "no vessel will be subject to the restrictions of the blockade of Elsinore but such as may be going to that port, in whatever direction they may be passing the Sound." It says further, that "the *equivogue* in the original communication was certainly not intentional." I have the honor to be, &c.

WM. PINKNEY.

Mr. Smith, Secretary of State, to Mr. Pinkney.

DEPARTMENT OF STATE,

October 19, 1810.

SIR: Your despatch of the 24th of August, enclosing a newspaper statement of a letter from the Duke of Cadore to General Armstrong, notifying



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a revocation of the Berlin and Milan decrees, has been received. It ought not to be doubted that this step of the French Government will be followed by a repeal on the part of the British Government of its Orders in Council. And if a termination of the crisis between Great Britain and the United States be really intended, the repeal ought to include the system of paper blockades, which differ in name only from the retaliatory system comprised in the Orders in Council. From the complexion of the British prints, not to mention other considerations, the paper blockades may, however, not be abandoned. There is hence a prospect that the United States may be brought to issue with Great Britain on the legality of such blockades. In such case, as it cannot be expected that the United States, founded as they are in law and in right, can acquiesce in the validity of the British practice, it lies with the British Government to remove the difficulty. In addition to the considerations heretofore stated to you in former letters, you may bring to the view of the British Government the retrospective operation of those diplomatic notifications of blockades which consider a notice to the Minister as a notice to his Government, and to the merchants who are at a distance of three thousand miles. It will recur to your recollection that the present Ministry, in the debates of Parliament, in opposition to the authors of the orders of January, 1807, denied that they were warranted by the law of nations. The analogy between these orders and the blockade of May, 1806, in so far as both relate to a trade between enemy ports, furnishes an appeal to the consistency of those now in office, and an answer to the attempts by them to vindicate the legality of that blockade. It is remarkable, also, that this blockade is founded on "the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of British subjects." What are those means? In what respect do they violate our neutral rights? Are they still in operation? It is believed that true answers to these questions will enforce the obligation of yielding to our demands on this subject. You may, also, refer the British Government to the characteristic definition of a blockaded port, as set forth in their treaty with Russia of June, 1801, the preamble of which declares that one of its objects was to settle "an invariable determination of their principles upon the right of neutrality."

Should the British Government unexpectedly resort to the pretext of an acquiescence, on the part of the United States, in their practice, it may be remarked that, prior to, as well as during, the present Administration, this Government has invariably protested against such pretensions; and, in addition to other instances heretofore communicated to you, I herewith transmit to you an extract of a letter to the Department of State of July 15, 1799, from Mr. King our Minister at London, and also such part of Mr. Marshall's letter to him of the 20th September, 1800, as relates to the subject of blockades. And it may, moreover, be urged, that the principle now contended for by the United States was maintained against

others, as well as Great Britain, as appears from the accompanying copy of the letter to our Minister at Madrid in the year, 1801. To this principle the United States also adhered, when a belligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letters from the Navy Department. You will press on the justice, friendship, and policy of Great Britain such a course of proceeding as will obviate the dilemma resulting to the United States from a refusal to put an end to the paper blockades as well as the Orders in Council.

The necessity of revoking the blockade of Copenhagen, as notified to you in May, 1808, will not escape your attention. Its continuance may embarrass us with Denmark, if not with France. Your answer as to the Corfu blockade is approved; and should the answer to it render a reply necessary, the President directs you to remonstrate against such a blockade; availing yourself, as far as they may be applicable, of the ideas in the letter to Mr. Charles Pinckney of October, 1801, and particularly of the proof it affords of our early remonstrance against the principle of such blockades.

No communication having yet been made by General Armstrong of a letter to him from the Duke of Cadore, declaring that the Berlin and Milan decrees will cease to be in force from the 1st day of November next, I can at this time only inform you, that if the proceedings of the French Government, when officially received, should correspond with the printed letter of the Duke of Cadore, enclosed in your despatch, you will let the British Government understand that on the 1st day of November the President will issue his proclamation, conformably to the act of Congress, and that the non-intercourse law will consequently be revived against Great Britain. And if the British Government should not, with the early notice received of the repeal of the French decrees, have revoked all its orders which violate our neutral rights, it should not be overlooked that Congress, at their approaching session, may be induced not to wait for the expiration of the three months (which were allowed on the supposition that the first notice might pass through the United States) before they give effect to the renewal of the non-intercourse. This consideration ought to have its weight in dissuading the British Government from the policy, in every respect misjudged, of procrastinating the repeal of its illegal edicts.

If the British Government be sincerely disposed to come to a good understanding, and to cultivate a friendly intercourse with the United States, it cannot but be sensible of the necessity, in addition to a compliance with the act of Congress, of concluding, at this time, a general arrangement of the topics between the two countries; and, above all, such a one as will, upon equitable terms, effectually put a stop to the insufferable vexations to which our seamen have been, and yet are exposed, from the British practice of impressment; a practice which has so strong a bearing on our neutrality, and to which no nation can submit consistently with its independence. To this very in-

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teresting subject you will therefore recall the attention of the British Government, and you will accordingly consider yourself hereby authorized to discuss and adjust the same separately, conformably to the instructions in my letter to you of the 20th January last; on the condition, however, contained in that letter, namely, that the requisite atonement shall have been previously made in the case of the outrage on the Chesapeake. But as in this case every admissible advance has been exhausted on the part of the United States, it will be improper to renew the subject to the British Government, with which it must lie to come forward with the requisite satisfaction to the United States. You will, therefore, merely evince a disposition to meet in a conciliatory form any overtures that may be made on the part of the British Government.

The British Government, having so long omitted to fulfil the just expectations of the United States in relation to a successor to Mr. Jackson, notwithstanding the reiterated assurances to you of such an intention, has no claims to further indulgence. On the receipt of this letter, therefore, should the appointment of a Plenipotentiary successor not have been made and communicated to you, you will let your purpose be known of returning to the United States, unless, indeed, the British Government should have unequivocally manifested a disposition to revoke their Order in Council conformably to the act of Congress of May last, and our affairs with them should have accordingly taken so unfavorable a turn as to justify, in your judgment, a further suspension of it.

I have the honor to be, &c.

R. SMITH.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. King, Minister Plenipotentiary of the United States at London, to Mr. Pickering, Secretary of State, dated

LONDON, July 15, 1799.

Seven or eight of our vessels, laden with valuable cargoes, have been lately captured, and are still detained for adjudication. These vessels were met in their voyage to and from the Dutch ports declared to be blockaded. Several notes\* have passed between Lord Grenville and me upon this subject, with the view, on my part, of establishing a more limited and reasonable interpretation of the law of blockade than is attempted to be enforced by the English Government. Nearly one hundred Danish, Russian, and other neutral ships, have, within a few months, been in like manner intercepted, going to and returning from the United Provinces. Many of them, as well as some of ours, arrived in the Texel in the course of the last Winter, the severity of which obliged the English fleet to return to their ports, leaving a few frigates only to make short cruises off the Texel, as the season would allow.

My object has been to prove that, in this situa-

tion of the investing fleet, there can be no effective blockade, which, in my opinion, cannot be said to exist without a competent force stationed and present at or near the entrance of the blockaded port.

Extract of a letter from Mr. King to Lord Grenville, dated

DOWNING STREET,

LONDON, May 23, 1799.

It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and, although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that, consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade, in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the siege is continued or raised. A siege may be commenced, raised, recommenced, and raised again; but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. Marshall, Secretary of State, to Mr. King, dated

SEPTEMBER 20, 1800.

The right to confiscate vessels bound to a blockaded port has been unreasonably extended to cases not coming within the rule as heretofore adopted.

On principle, it might well be questioned whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle (a departure which has received some sanction from practice) that we mean to complain. It is, that ports, not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and, on that account, confiscated.

This is a vexation proceeding directly from the Government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it, with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of all the belligerent Powers may, at all times, be declared in that state, and the commerce of neutrals be thereby subjected to

\*See the note from Mr. King to Lord Grenville, immediately following.

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universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British Minister; who replies, that an occasional absence of a fleet from a blockaded port ought not to change the state of the place.

Whatever force this observation may be entitled to where that occasional absence has been produced by accident, as a storm, which for a moment blows off the fleet and forces it from its station, which station it immediately resumes, I am persuaded that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle requiring an effective blockade, which is, that the mischief can then only be co-extensive with the naval force of the belligerent, requires that, during such temporary absence, the commerce of neutrals to the place should be free.

[Referred to in the letter of the Secretary of State, of October 19, 1810.]

Extract of a letter from Mr. Madison to Mr. Charles Pinckney, dated

DEPARTMENT OF STATE,  
October 25, 1801.

The pretext for the seizure of our vessels seems at present to be, that Gibraltar has been proclaimed in a state of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish Government, and defended on that ground, you will be able to reply:

1. That the proclamation was made as far back as the 15th of February, 1800, and has not since been renewed; that it was immediately protested against by the American and other neutral Ministers at Madrid, and not warranted by the real state of Gibraltar; and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded to have been rather a menace against the enemies of Spain than a measure to be carried into execution against her friends.

2. That the state of Gibraltar is not, and never can be, admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations, as laid down in the most approved commentators; by every treaty which has undertaken to define a blockade, particularly those of latest date\* among the maritime nations of Europe; and by the sanction of Spain herself, as a party to the armed neutrality, in the year 1791. The spirit of articles fifteen and sixteen of the treaty between the United States and Spain may also be appealed to as favoring a liberal construction of the rights of the parties in such cases. In fact, the idea of an investment, a siege, or a blockade, as collected from the author-

ities referred to, necessarily results from the force of those terms; and, though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favorite objects, it has invariably kept its place in the code of public law, and cannot be shown to have been expressly renounced in a single stipulation between particular nations.

3. That the situation of the naval force at Algeziras, in relation to Gibraltar, has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege, or blockade the garrison, nor to guard the entrance into the port. On the contrary, the gunboats infesting our commerce have their stations in another harbor, separated from that of Gibraltar by a considerable bay; and are so far from beleaguering their enemy at that place, and rendering the entrance into it dangerous to others, that they are, and ever since the proclamation of a blockade have been, for the most part, kept at a distance by a superior naval force, which makes it dangerous to themselves to approach the spot.

4. That the principle on which the blockade of Gibraltar is asserted is the more inadmissible, as it may be extended to every other place in passing to which vessels must sail within the view and reach of the armed boats belonging to Algeziras. If, because a neutral vessel bound to Gibraltar can be annoyed and put in danger by way-laying cruisers, which neither occupy the entrance into the harbor, nor dare approach it, and by reason of that danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may with equal reason be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture; or, if the armed vessels from Algeziras alone should be insufficient to create this danger in passing into the Mediterranean, other Spanish vessels, co-operating from other stations, might produce the effect, and thereby not only blockade any particular port, or the ports of any particular nation, but blockade at once a whole sea, surrounded by many nations. Like blockades might be proclaimed by any particular nation, enabled by its naval superiority to distribute its ships at the mouth of the same, or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this, Spain herself appears to have been sensible in the year 1780, when she yielded to Russia ample satisfaction for the seizures of her vessels, made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5. That the United States have the stronger ground for remonstrating against the annoyance of her vessels on their way to Gibraltar, inasmuch

\* The late treaties between Russia and Sweden, and between Russia and Great Britain.

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as, with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy for their own accommodation in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration it may be added, that the real object of a blockade is to subject the enemy to privations, which may co-operate with external force in compelling them to surrender—an object which cannot be alleged in a case where it is well known that Great Britain can and does, at all times, by her command of the sea, secure to the garrison at Gibraltar every supply which it wants.

6. It is observable, that the blockade of Gibraltar is rested by the proclamation on two considerations: one, that it is necessary to prevent illicit traffic, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition, never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain from its complaints against Great Britain, unless it could be shown that the United States were in an unlawful collusion with the latter—a charge which they well know that Spain is too just and too candid to insinuate. It cannot even be said that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretexts, on their lawful commerce. Had this, indeed, been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish occasional examples, and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed, that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain, as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be best suited to their object; and it is equally certain that redress has in some measure been obtained, and that the pursuit of complete redress is by no means abandoned.

7. Were it admitted that the circumstances of Gibraltar, in February, 1800, the date of the Spanish proclamation, amounted to a real blockade, and that the proclamation was therefore obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real blockade, (neither of which can be admitted,) still the conduct of the Algeiras cruisers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force

of the proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case since the date of the proclamation; particularly and notoriously, when the port of Algeiras itself was lately entered and attacked by a British fleet; and because, on a renewal of the blockade, either a new proclamation ought to have issued, or the vessels making for Gibraltar ought to have been premonished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under the pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief to neutral commerce, than the attempts to substitute fictitious blockades by proclamation, for real blockades formed according to the law of nations; and, consequently, none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority, from repetitions on one side, and silent acquiescence on the other.

[Referred to in the letter of the Secretary of State, of October 19, 1810.]

Mr. Smith, Secretary of the Navy, to Commodore Preble.

NAVY DEPARTMENT, Feb. 4, 1804.

SIR: Your letter of the 12th November, enclosing your circular notification of the blockade of the port of Tripoli, I have received.

Sensible, as you must be, that it is the interest, as well as the disposition, of the United States to maintain the rights of neutral nations, you will, I trust, cautiously avoid whatever may appear to you to be incompatible with those rights. It is, however, deemed necessary, and I am charged by the President to state to you what, in his opinion, characterizes a blockade. I have, therefore, to inform you, that the trade of a neutral, in articles not contraband, cannot be rightfully obstructed to any port not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever, therefore, you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will, however, not take as prize any vessel attempting to enter the port of Tripoli without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel notice of such blockade, and forewarn him from entering; and if, after such a notification, such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive, that you are to consider your circular communication to the neutral Powers, not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for

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the discontinuance of all commerce with such blockaded port. I have the honor to be, &c.

ROBERT SMITH.

Extracts—Mr. Smith to Mr. Pinkney.

NOVEMBER 2, 1810.

With the duplicate of my letter to you of the 19th ultimo, I now send to you a copy of the President's proclamation, founded on the repeal of the Berlin and Milan decrees. Enclosed you will also receive a copy of my letter to General Armstrong of this day, which will afford you a view of the reservations and understanding under which this proclamation has been issued.

To the copy of the proclamation herewith transmitted, in relation to West Florida, and to my letter to General Armstrong, touching the same, I refer you for information, as to the views of this Government in taking possession of that country, and as to the considerations which had constrained the President, at this juncture, to resort to this measure.

This despatch will be delivered to you by one of the officers of the United States' frigate *Essex*, who will have orders to return to his ship as soon as he shall have received such letters as you may deem it necessary to transmit to this Department

Mr. Pinkney to Mr. Smith.

LONDON, November 5, 1810.

SIR: I have presented a second note, of which a copy is enclosed, to Lord Wellesley, on the subject of the Orders in Council, under an impression that the state of the King's health (for which I beg to refer you to the paper herewith transmitted) did not render it improper, and that, if it was not improper on that account, it was indispensable on every other.

The day had gone by when the Berlin and Milan decrees were to cease to operate, according to the communication made by the Government of France to the American Minister at Paris, and published in the official journal of that Government; and yet no step whatever had been taken, or apparently thought of, towards the revocation of the British orders. I had received no explanation of the reasons of this backwardness, and no such assurance, looking to the future, as could justify an opinion that it would not continue. Lord Wellesley's letter of the 31st of August, which I had left unanswered till after the 1st of November, that I might stand on the strongest possible ground when I did answer it, made no profession of being a present measure, and (though, from obvious motives, I have not so represented it in my note to him of the 3d instant,) was vague and equivocal as a prospective pledge. It defined nothing, and was so far from warranting any specific expectation, that it seemed rather to take away the very little of precision which belonged to former declarations on the same point. It was highly important to the commerce of the United States, that this ambiguity should be cleared away, with all practicable ex-

pedition, and, if it could not be removed, that no presumption should be afforded of a disposition, on the part of the United States, to acquiesce in it. My note to Lord Wellesley was written and delivered upon those inducements.

In the King's actual situation, the Orders in Council can scarcely be formally recalled, even if the Cabinet are so inclined; but it does not follow that something may not be done (though I have no reason to think that anything will be done) which may be productive of immediate advantage, and, at any rate, prepare the way for the desired repeal.

I have the honor to be, &c.

WILLIAM PINKNEY.

P. S. This letter is written in great haste, that I may send it to Liverpool by this evening's mail.

W. P.

[Referred to in Mr. Pinkney's despatch of Nov. 5.]

Mr Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

November 3, 1810.

MY LORD: In my note of the 25th August, I had the honor to state to your Lordship that I had received, from the Minister Plenipotentiary of the United States at Paris, a letter, dated the 6th of that month, in which he informed me that he had received from the French Government a written and official notice that it had revoked the decrees of Berlin and Milan, and that, after the 1st of November, those decrees would cease to have any effect; and I expressed my confidence that the revocation of the British Orders in Council of January and November, 1807, and April, 1809, and of all other orders dependent upon, analogous to, or in execution of them, would follow of course.

Your Lordship's reply, of the 31st of August, to that note, repeated a declaration of the British Minister in America, made, as it appears, to the Government of the United States in February, 1808, of "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary;" and added an official assurance that "whenever the repeal of the French decrees, should have actually taken effect, and the commerce of the neutral nations should have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."

Without departing in any degree from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French decrees would be immediately followed by at least a like revocation of the orders of England, I must remind your Lordship, that the day has now passed when the repeal of the Berlin and Milan edicts,

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as communicated to your Lordship in the note above-mentioned, and published to the whole world by the Government of France in the *Moniteur* of the 9th of September, was, by the terms of it to take effect. That it has taken effect cannot be doubted, and it can as little be questioned that, according to the repeated pledges given by the British Government on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system to which your Lordship's reply to my note of the 25th of August alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States, that the Government of Great Britain should lose no time in disclosing, with frankness and precision, its intentions on this head. Intelligence of the French repeal has reached America, and commercial expeditions have, doubtless, been founded upon it. It will have been taken for granted that the British obstructions to those expeditions, having thus lost the support, which, however, insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such Orders in Council as were subsequent in date to the decrees of France, will be added the annulment of the antecedent order, to which my late letter respecting blockades particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British Government shall have determined not to remove those obstructions with all practicable promptitude, I trust that my Government will be apprized, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests; and that the reasons upon which that determination may have been formed will not be withheld from it.

I have the honor to be, &c.

WILLIAM PINKNEY.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, November 7, 1810.

I enclose a duplicate of my letter of the 5th instant, in which was transmitted a copy of my note to Lord Wellesley of the 3d, concerning the Orders in Council.

I have little more to say, in addition to what is contained in that letter, than that it is my intention, in case Lord Wellesley gives me an unfavorable answer to it, to enter at large into the whole subject in my rejoinder; and, in case he delays improperly his reply, to take as strong notice of that impropriety as I can.

As soon as the King recovers, I mean to mention again the subject of a Minister Plenipotentiary to the United States, (which Lord Wellesley, notwithstanding his written and verbal pledges, seems to have quite forgotten,) and if satisfactory assurances are not renewed and acted

upon, to announce my determination to return to America, and to leave a *Chargé d'Affaires*; in the choice of whom, however, I shall have considerable difficulty, unless you should furnish me in season with the expected Secretary of Legation. I presume that, in taking this course, I shall fulfil the wishes of the President, and I can assure you, with great truth, that I shall consult by it my own inclinations.

Mr Pinkney to Mr. Smith.

LONDON, November 14, 1810.

SIR: I have finally determined not to mention again to Lord Wellesley (as I had thoughts of doing) the subject of a Plenipotentiary successor to Mr. Jackson. I think, upon reflection, (and shall act accordingly,) that I ought, after what has passed, to leave him, without further inquiry or notice on my part, to shape his course upon it; and that, if an appointment should not be made as soon as the King's health (which would seem to be improving) will permit, I ought at once to send in an official note, announcing my resolution to return to America, and to leave some suitable person as a *Chargé d'Affaires*.

My letter of the 23d of July informed you that, after Lord Wellesley's written assurance of the 22d of that month, (which was in conformity, as far as it went, with his assurances in conversation,) "that it was his intention immediately to recommend the appointment of an Envoy Extraordinary and a Minister Plenipotentiary from the King to the United States," I did not think myself authorized to take the step which the instructions contained in your letter of the 23d of May, in certain circumstances, prescribed.

My opinion was, that whether the prospect, which then existed, of bringing to a conclusion the affair of the Chesapeake, were taken into the account or not, it was my obvious duty to remain at my post, most irksome as it was every day becoming, until it should incontestably appear that those assurances were not to be relied upon.

Before a sufficient time had elapsed to warrant so harsh a conclusion, I received from Lord Wellesley, on the 28th of August, a further casual intimation (reported to you in my letter of the 29th of the same month) that his recommendation of a Minister would, as he believed, be made in the course of that week or the next.

In the meantime the repeal, by the Government of France, of the Berlin and Milan decrees had produced a posture of affairs which, whatever might be Lord Wellesley's forgetfulness of his own declarations, or the inattention of his Government to what he might advise in consequence of them, rendered my stay in England for two or three months longer indispensable.

In fine, the effect of that consideration had not ceased, when the illness of the King made it impossible that I should depart.

Upon the King's recovery, I shall have every motive for bringing this matter to an issue, and none for the least hesitation or reserve upon it. Several months will have been allowed for the

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performance of an act which might have been completed in as many weeks.

I shall have done everything in my power on the subjects connected with the revocation of the French edicts. And the British Government will be in a situation to admit of such proceedings on its own part, and on mine, as the occasion will require.

From Lord Wellesley's intimation to me on the 28th of August, (mentioned above,) it is perfectly clear that he had not then executed the intention so positively announced in his note of the 22d of July. Five or six weeks had passed, and that which he had both said and written he meant to do immediately, he was not yet sure that he meant to do within another fortnight. The presumption seems, nevertheless, to be quite unnatural, that Lord Wellesley continued, up to the commencement of the King's malady, to be negligent of a pledge, which he chose to rest not merely on his official but his personal character—a pledge, of which he knew I could neither question the sufficiency nor doubt the sincerity, and by which, as he also knew, my conduct on an extremely delicate point of duty was wholly determined.

On the other hand, if Lord Wellesley has been mindful of his pledge, and has recommended a Minister in compliance with it, how has it happened (how can it have happened) that this recommendation has not been followed by an appointment?

In the midst of all this doubt, which Lord Wellesley might dissipate if he pleased, by an explanation apparently necessary for his own sake, there is, I believe, no uncertainty as to the course which, in the actual state of my instructions, (or on the score of general propriety,) I ought to pursue; especially as I must infer from your silence since the arrival of Mr. Morier at Washington, (if I had no other reason for that inference,) that no such communication was made, either by or through that gentleman to you, as ought, in the judgment of the President, to have any influence upon my conduct on this occasion.

I have the honor to be, &c.

WILLIAM PINKNEY.

P. S. November 15. I hear nothing from Lord Wellesley, and not much from any other quarter, concerning the Orders in Council. I have not lately sought any interview with him on that or any other occasion. It is impossible for me to look back upon the past, and to place much value upon conferences.

I am particularly anxious to get from Lord Wellesley, in case the British Government persists in declining to repeal the orders, a distinct statement in writing of the motives of its conduct.

Thus far I have taken for granted the manifest and incontrovertible justice of our expectations; believing that there could, in the first instance, be no sufficient inducement for anticipating difficulties and objections in so plain a case; that, if any existed, they ought to be, and would

be, avowed; and that, when avowed, I could meet them with more advantage than while they were only conjectured. Should, however, a studious ambiguity continue to be preserved on a subject, which now touches more nearly than ever (in my opinion vitally) the character and rights of our country, I shall very soon think myself called upon to suppose for this Government reasons which it will not declare, and to examine them with fulness and freedom in a letter to Lord Wellesley. It is unnecessary, in the mean time, to trouble you with the view which that letter will contain. I have not lately received anything from France which enables me to put the repeal of the French decrees in a stronger light than could otherwise be done. Mr. Russell has written me two letters; the first dated the 26th of September, and received on the 3d of October; the other dated the 10th of October, and received the 13th of November. This last enclosed a letter to me from General Armstrong of the 29th of September. He had written me a short note from Paris, dated the 13th of September, (but not received till long afterwards,) which enclosed a copy of the French Minister's letter to him of the 12th of that month, already received from Mr. Russell in his letter of the 26th of September.

Such use as could be made of these different communications I have made. Of course it could be very little. A *Moniteur* of the 9th of September, containing the Duke of Cadore's letter of the 5th of August to General Armstrong, (which I got through a private channel,) is much more likely to be of service (if anything can be of service) here, where that journal is considered as equivalent to the London Gazette; and I have accordingly referred to it in my note to Lord Wellesley of the 3d instant.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

November 15, 1810.

SIR: From a review of the conduct of the British Government in relation to a Plenipotentiary successor to Mr. Jackson, as presented in your several communications, including even those brought by the *Hornet*, at which date and on which inviting occasion the subject does not appear to have been within the attention of the Government, the President thinks it improper that the United States should continue to be represented at London by a Minister Plenipotentiary. In case, therefore, no appointment of a successor to Mr. Jackson of that grade should have taken place at the receipt of this letter, you will consider your functions as suspended, and you will accordingly take your leave of *absence*, charging a fit person with the affairs of the Legation.

Considering the season at which this instruction may have its effect, and the possibility of a satisfactory change in the posture of our relations with Great Britain, the time of your return to the United States is left to your discretion and convenience. I have the honor, &c.

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Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, Nov. 19, 1810.

My third letter to Lord Wellesley concerning the French decrees and the British Orders in Council, will be presented much sooner than I had at first intended. I shall, I think, present it in a few days. Upon the other subject of my letter to you of the 14th instant, I need not add anything to what is there said upon it.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, Nov. 21, 1810.

An American vessel (the *Fox*) has, within a few days past, been brought into Plymouth as prize to a King's ship (the *Amethyst*) for an imputed attempt to go to Cherbourg, in France, in violation of the unrepealed British orders. I have requested that the case may be represented in proper form to me, and I mean to use it as the best ground for my intended letter to Lord Wellesley.

Extract of a letter from William Pinkney, Esq., Minister Plenipotentiary of the United States in London, to the Secretary of State.

LONDON, Dec. 14, 1810.

On the 4th instant I received from Lord Wellesley a note, of which a copy (marked No. 1) is enclosed, respecting the repeal of the French decrees. The conference to which it invited me took place on the 5th; and in the course of it I explained to him at considerable length my view of that subject, and of the points immediately connected with it. Lord Wellesley heard me in his usual manner, but confined himself to such general remarks and professions as I need not repeat to you. He proposed that our conference should be renewed on the 7th, and engaged in the mean time to report to his colleagues what I had said, and at our next interview to make me acquainted with the result.

He introduced, of his own accord, the two subjects of a Minister Plenipotentiary and the Chesapeake.

On the first, he professed to entertain the same disposition and intention as heretofore; and declared that the delay which had taken place arose altogether from some obstacles of a personal nature to obtaining the services of the person whom he particularly wished to send to America; that he hoped these obstacles would soon be removed; that he had another person in view if it should be otherwise; that he had not supposed that delay could be considered as of any moment by my Government, after the assurance contained in his note to me in July last; that these temporary inequalities were common, and, when not meant to be offensive, were never held to be so, &c.

On the second, he informed me that he had not sent me a paper which he had prepared upon it, because he thought it would be well that the new Minister should carry out the adjustment, and,

consequently, that it should be postponed until he was appointed. He repeated that we should have no difficulties upon it. I give you these verbal explanations as I received them.

On the 6th instant I received from Lord Wellesley another note, of which a copy (marked No. 2) is enclosed, requesting me to recapitulate in writing my verbal communication of the 5th. With this request I complied, as you will perceive by the enclosed copy (marked No. 3) of my letter to him of the 10th.

I could have no motive for going to him on the 7th, and had therefore no interview with him on that day.

As the case of the *Fox* was rather pressing, and I was not sure that I could prepare my letter on the general subject in season, I sent in a separate note upon it on the 8th. A copy of that note (marked No. 4) is enclosed. I have no reply to it, and did not expect one; but I understand that the cause has been, and will be, postponed.

A newspaper copy of the President's proclamation of the 2d of November arrived in London on the 11th instant, and produced a good deal of sensation. It gave me pleasure to find my letter to Lord Wellesley so supported. I hope soon to receive an official communication of it.

What will be done here on the affair of the Orders in Council, &c., I cannot yet say. The general impression seems to be that they will do nothing. My letter to Lord Wellesley was written (as my verbal communication had been given) under a persuasion that they will do nothing if they can help it. A very firm tone ought now to be assumed with this Government.

No. 1.

FOREIGN OFFICE, Dec. 4, 1810.

SIR: After the most accurate inquiry, I have not been able to obtain any authentic intelligence of the actual repeal of the French decrees, to which your notes of the 25th of August and 3d of November refer, or of the restoration of the commerce of neutral nations to the condition in which it stood previously to the promulgation of those decrees.

If you should be in possession of any such information, I should be happy to receive it from you, and for that purpose I request to have the honor of a conference with you at this office tomorrow, at two o'clock.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq.

No. 2.

FOREIGN OFFICE, Dec. 6, 1810.

SIR: The importance of the verbal communication which I had the honor of receiving from you yesterday induces me to request that you will have the goodness to commit the substance of it to writing at the earliest time which may suit your convenience.

As soon as I shall have received such a written



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statement from you, I shall be anxious to return an official reply in the same form.

Under these circumstances, it may, perhaps, be unnecessary that you should take the trouble of calling at this office to-morrow.

If, however, you should be desirous of seeing me, I shall have the honor of receiving you between two and three o'clock.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq.

No. 4.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE.

December 8, 1810.

MY LORD: I have the honor to represent to you that an American vessel, (the *Fox*), proceeding with an American cargo, from a port of the United States to Cherbourg, in France, in the confidence that the repeal of the decrees of Berlin and Milan had, in conformity with repeated pledges and the obvious demands of justice, been followed by the revocation of the British Orders in Council, has been captured since the first of last month, by an English frigate, for an alleged breach of these orders, and brought into Plymouth, and since proceeded against in the High Court of Admiralty as prize of war.

It is my duty to require that this vessel and her cargo may be restored as speedily as possible to their rightful owner, that she may be left at full liberty to resume the lawful voyage in which she was engaged, and that effectual measures may be adopted, with as little delay as circumstances will permit, for the prevention of similar interruptions in future.

I understand that the captors, in this case, are likely to be urgent for condemnation; and that the Orders in Council will, if unrepealed, be considered by the court as imposing upon it a necessity to pronounce such a sentence. I am further informed that the cause may be heard, if the captors press it, on, or very soon after, Tuesday next. I trust, however, that the necessary steps will be taken by the British Government for preventing the signal injustice and the many embarrassments that could not fail to result from such an adjudication.

I have the honor to be, &c.

WM. PINKNEY.

No. 3.

Copy of a letter from Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

December 10, 1810.

MY LORD: In compliance with the request contained in your note of the 6th instant, I proceed to recapitulate in this letter (with some variations, however,) the statements and remarks which I had the honor to make in our conference of the 5th, respecting the revocation of the French decrees, as connected with a change of system here, on the subject of neutral rights.

Your Lordship need not be told that I should be happy to offer, at a much earlier moment, every explanation in my power on matters of such high concern to the rights and commerce of my country, and the future character of its foreign relations, if I had been made to understand that explanation was desired.

My written communications of August and November were concise, but they were not intended to be insufficient. They furnished evidence which I thought conclusive, and abstained from labored commentary, because I deemed it superfluous. I had taken up an opinion, which I abandoned reluctantly and late, that the British Government would be eager to follow the example of France in recalling, as it had professed to do in promulgating, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade in almost all its directions the hopeless alternative of inactivity or confiscation; which considered it as a subject to be regulated, like the trade of the United Kingdom, by the statutes of the British Parliament; and undertook to bend and fashion it by every variety of expedient to all the purposes and even the caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly odious, for its theory and destructive effects to others, could survive the public declaration of France that the edicts of Berlin and Milan were revoked. Instructed at length, by your Lordship's continued silence, and alarmed for the property of my fellow-citizens, now more than ever exposed, by an erroneous confidence, to the ruinous operation of the British orders, I was preparing to support my general representations by detailed remonstrance, when I received the honor of your note of the 4th instant. In the conference which ensued, I troubled your Lordship with a verbal communication, of which the following is nearly the substance:

The doubts which appear to stand in the way of the recall of the British Orders in Council, (under which denomination I include certain orders of blockade of a kindred principle and spirit,) must refer to the manner, or the terms, or the practical effect of the alleged repeal of the decrees of France.

That the manner of the proceeding is satisfactory to the British Government cannot be questioned; since it is precisely that in which its own numerous orders for establishing, modifying, or removing blockades, and other maritime obstructions, are usually proclaimed to neutral States and merchants.

The French repeal was officially notified on the 5th of August, to the Minister Plenipotentiary of the United States at Paris, by the French Minister for Foreign Affairs, as I had the honor to inform your Lordship in my letter of the 25th of the same month, which not only gave the import, but (as the enclosed copy will show) adopted the words of General Armstrong's statement to me of the tenor and effect of that notice.

On the 9th of August the notification to General

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Armstrong was published in the *Moniteur*, the official journal of the French Government, as the act of that Government; and thus became a formal declaration, and a public pledge to all who had an interest in the matter of it.

It would be a waste of time to particularize the numerous instances of analogous practice in England, by which this course is countenanced; but a recent example happens to be before me, and may therefore be mentioned. The partial recall, or modification of the English blockade of the ports and places of Spain from Gijon to the French territory, (itself known to my Government only through a circular notification to me, recited afterwards in the *London Gazette*,) was declared to the American and other Governments in exactly the same mode.

I think it demonstrable that the terms in which the French revocation was announced are just as free from well-founded objection as the manner.

Your Lordship's view of them is entirely unknown to me; but I am not ignorant that there are those in this country who, professing to have examined them with care, and having certainly examined them with jealousy, maintain that the revocation, on the 1st of November, was made to depend, by the obvious meaning of those terms, upon a condition precedent which has not been fulfilled, namely, the revocation by Great Britain of her Orders in Council, including such blockading orders as France complains of as illegal.

If this were even admitted to be so, I am yet to learn upon what grounds of justice the British Government could decline to meet, by a similar act on its part, an advance, thus made to it by its adversary in the face of the world, towards a co-operation in the great work of restoring the liberty of the ocean; so far, at least, as respects the Orders in Council of 1807 and 1809, and such blockades as resemble them. It is not necessary, however, to take this view of the question; for the French revocation turns on no condition precedent, is absolute, precise, and unequivocal.

What construction of the document which declares that revocation might be made by determined suspicion and distrust, I have no wish and am not bound to inquire. Such interpreters would not be satisfied by any form of words, and would be likely to draw the same conclusion from perfect explicitness and studied obscurity. It is enough for me that the fair, and natural, and necessary import of the paper affords no color for the interpretation I am about to examine.

The French declaration "that the decrees of Berlin and Milan are revoked, and that, from the 1st of November they will cease to have any effect," is precision itself. But they are followed by these words; "*Bien entendu qu'en conséquence de cette déclaration les Anglais révoqueront leurs arrêts du conseil, et renonceront aux nouveaux principes de blocus qu'ils ont voulu établir, ou bien que les Etats Unis, conformément à l'acte que vous venez communiquer, feront respecter leurs droits par les Anglais.*"

If these words state any condition they state two; the first depending upon Great Britain, the

last, upon the United States; and as they are put in the disjunctive, it would be extravagant to hold that the non-performance of one of them is equivalent to the non-performance of both. I shall take for granted, therefore, that the argument against my construction of the Duke of Cadore's letter must be moulded into a new form. It must deal with two conditions instead of one, and considering them equally as conditions precedent to be performed (disjunctively) before the day limited for the operative commencement of the French repeal, must maintain that, if neither of them should be performed before that day, the decrees were not to be revoked; and, consequently, that, as neither of them has been so performed, the decrees are still in force.

If this hypothesis of previous conditions, thus reduced to the only shape it can assume, be proved to be unsound, my construction is at once established; since it is only upon that hypothesis that any doubt can be raised, against the exact and perspicuous assurance that the decrees were actually repealed, and that the repeal would become effectual on the 1st of November. This hypothesis is proved to be unsound, by the following consideration:

It has clearly no foundation in the phraseology of the paper, which does not contain a syllable to put any condition before the repeal. The repeal is represented as a step already taken, to have effect on a day specified. Certain consequences are, indeed, declared to be expected from this proceeding; but no day is given, either expressly or by implication, within which they are to happen. It is not said, "*bien entendu que les Anglais auront révoqué,*" &c. but "*que les Anglais révoqueront,*" &c. indefinitely as to time.

The notion of conditions precedent is, therefore, to say the least of it, perfectly gratuitous. But it is also absurd. It drives us to the conclusion, that a palpable and notorious impossibility was intended to be prescribed as a condition, in a paper which they, who think it was meant to deceive, must admit was meant to be plausible.

It was a palpable and notorious impossibility, that the United States should, before the 1st of November, execute any condition, no matter what the nature of it, the performance of which was to follow the ascertained failure of a condition to be executed by Great Britain at any time before the same 1st of November. That the act expected from the United States was to be consequent upon the failure of the other, is apparent. It is also apparent, that upon any interpretation which would make the act of Great Britain a condition precedent to the French repeal, and consequently, precedent to the 1st November, (when the repeal was, if ever, to take effect,) that condition could not be said to have failed before the whole period, from the 5th of August to the 1st of November, had elapsed. But if Great Britain had the whole time within which to elect the course which she would pursue, what opportunity would be left to the United States, (equally bound, upon this idea of conditions precedent, to act their part within the same period,)

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to become acquainted with that election, and to decide upon and take their own course in consequence; to say nothing of the transmission of such intelligence of it to Europe, as would be indispensable to the efficacy of the conditional revocation?

This general view would alone be sufficient to discredit the arbitrary construction under consideration. But it will be more completely exposed by an explanation of the nature of the act, which the latter professes to expect from the United States, in case Great Britain should omit to revoke. This act is the revival of the non-intercourse law against England, France remaining exempt from it, as well as from the provisions of the subsequent law, commonly called the non-intercourse act. Now, if it is too plain, upon the face of the last mentioned law (to which the letter expressly refers) to escape the most negligent and unskilful observer, that this revival could not, by any industry or chance, be accomplished before the time fixed for the cessation of the French decrees, or even for a considerable time afterwards, it certainly cannot be allowable to assume, that the revival was required by the letter (whatever was the object of the writer or his Government) to precede the session. And if this was not required, it is incontrovertible that the cessation would, by the terms of the letter, take place on the appointed day, whether any of the events disjunctively specified had intervened or not.

The first step towards a revival of the non-intercourse against England would be the proclamation of the President that France had so revoked or modified her edicts, as that they ceased to violate the neutral commerce of the United States. But the letter of Monsieur Champagny left the decrees as it found them up to the first of November, and, consequently, up to that day it could not, for anything contained in that letter, be said that the rights of American commerce were no longer infringed by them. A prospective proclamation, that they would cease to violate those rights, might, perhaps, be issued; but it could scarcely have any substantial operation, either in favor of France or to the prejudice of England, until the epoch to which it looked had arrived.

Let it be admitted, however, that all physical and legal obstacles to the issuing, before the 1st of November, of a proclamation, to take effect immediately, were out of the way; how would such a proceeding fulfil, of itself, the expectation that the United States would, before the 1st of November, "cause their rights to be respected by the English," in the mode pointed out in the letter, namely, by the enforcement of the non-intercourse law? The proclamation would work no direct or immediate consequence against England. Three months from its date must pass away before the non-intercourse law could revive against her; and when it did so, the revival would not be the effect of the proclamation, but of the continued adherence of England to her obnoxious system. Thus, even if a proclamation, effectual from its date, had been issued by the President on the day when the French declaration of repeal

came to the hands of the American Minister at Paris, the intercourse between the United States and Great Britain would, on the 1st of November, have remained in the same condition in which it was found in August. As all this was well understood by the Government of France, the conclusion is, that its Minister, professing too to have the American law before him, and to expect only what was conformable with that law, did not intend to require the revival of the non-intercourse against England as a condition to be performed before the 1st of November.

It is worthy of remark, as introductory to another view of this subject, that even they who conclude that the repeal of the French decrees has failed, are not backward to ascribe to the French declaration a purpose utterly inconsistent with that conclusion. They suppose the purpose to have been to affect the existing relations between America and England, by the only means which the declaration states, the act of non-intercourse. And it is certain that unless England should abandon particular parts of her system, this was the result avowedly in view, and meant to be accomplished. But there could be no hope of such a result without a previous effectual relinquishment of the French decrees. A case could not otherwise be made to exist (as the Duke of Cadore was aware) for such an operation of the American law. To put the law before the revocation of the edicts was impossible. With the law in his hand, it would have been miraculous ignorance not to know that it was the exact reverse of this which his paper must propose. He would derive this knowledge, not from that particular law only, but from the whole tenor and spirit of American proceedings, in that painful and anomalous dilemma, in which Great Britain and France, agreeing in nothing else, had recently combined to place the maritime interests of America. He would collect from those proceedings that, while those conflicting Powers continued to rival each other in their aggressions upon neutral rights, the Government of the United States would oppose itself impartially to both. The French declaration, then, had either no meaning at all, or it meant to announce to General Armstrong a positive revocation of the French edicts.

I should only fatigue your Lordship by pursuing further a point so plain and simple. I will, therefore, merely add to what I have already said on this branch of the subject, that the strong and unqualified communication from General Armstrong to me, mentioned in the commencement of this letter, and corroborated by subsequent communications (one of which I now lay before you) may, perhaps, without any great effort of courtesy, be allowed to contain that "authentic intelligence" which your Lordship is in search of. He could scarcely have been free from doubt, if the occasion was calculated to suggest it; and if he had really doubted, would hardly have spoken to me with the confidence of conviction.

It only remains to speak of the practical effect of the French repeal. And here your Lordship

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must suffer me to remind you that the orders of England in 1807, did not wait for the practical effect of the Berlin decree, nor linger until the obscurity, in which the meaning of that decree was supposed to be involved, should be cleared away by time or explanation. They came promptly after the decree itself, while it was not only ambiguous but inoperative, and raised upon an idle prohibition, and yet a more idle declaration, which France had not attempted to enforce, and was notoriously incapable of enforcing, a vast scheme of oppression upon the seas, more destructive of all the acknowledged rights of peaceful States than history can parallel. This retaliation, as it was called, was so rapid, that it was felt before the injury was said to have provoked it; and yet, that injury, such as it was, was preceded by the practical assertion, on the part of Great Britain, of new and alarming principles of public law, in the notification of the blockade of May, 1806, and in the judicial decisions of the year before. To uphold the retaliatory orders, everything was presumed with a surprising facility. Not only was an impotent, unexecuted, and equivocal menace presumed to be an active scourge of the commerce of neutral nations, but the acquiescence of those nations was presumed, against the plainest evidence of facts.

The alacrity with which all this was done can never be remembered without regret and astonishment; but our regret and astonishment must increase, if, after four years have been given to the pernicious innovation which these presumptions were to introduce and support, something like the same alacrity should not be displayed in seizing an honorable opportunity of discarding it forever.

It is not unnatural to imagine that it will be discarded with pleasure, when it is considered, that, having never been effectual as an instrument of hostility, it cannot now lay claim to those other recommendations for which it may have heretofore been prized. The Orders in Council (of November) have passed through some important changes; but they have been steady, as long as it was possible, to the purpose which first impressed them with a character not to be mistaken.

In their original plan, they comprehended not only France and such allied or dependent Powers as had adopted the edict of Berlin, but such other nations as had merely excluded from their ports the commercial flag of England. This prodigious expansion of the system was far beyond any intelligible standard of retaliation; but it soon appeared that neutrals might be permitted to traffic, under certain restrictions, with all these different nations, provided they would submit with a dependence truly colonial, to carry on their trade through British ports, and to pay such duties as the British Government should think fit to impose, and such charges as British agents and other British subjects might be content to make.

The United States abstained from this traffic, in which they could not embark without dishonor; and in 1809 the system shrunk to narrower dimensions, and took the appearance of an absolute

prohibition of all commercial intercourse with France, Holland, and the kingdom of Italy.

The prohibition was absolute in appearance, but not in fact. It had lost something of former exuberance, but nothing of former pliancy, and, in the event, was seen to yield to the demands of one trade while it prevented every other.

Controlled and relaxed and managed by licenses, it did not, after a brief exhibition of Imperial sternness, affect to "distress the enemy" by the occlusion of his ports, when the commerce of England could advantageously find its way to them. At length, however, this convenience seems to be enjoyed no longer, and the Orders in Council may apparently be now considered (if, indeed, they ought not always to have been considered) as affecting England with a loss as heavy as that which they inflict on those whose rights they violate. In such circumstances, if it be too much to except the credulity of 1807, it may yet be hoped, that the evidence of the practical effect of the French repeal need not be very strong to be satisfactory. It is, however, as strong as the nature of such a case will admit, as a few observations will show.

On such an occasion it is no paradox to say, that the want of evidence is itself evidence. That certain decrees are not in force, is proved by the absence of such facts as would appear if they were in force. Every motive which can be conjectured to have led to the repeal of the edicts invites to the full execution of that repeal, and no motive can be imagined for a different course. These considerations are alone conclusive.

But further, it is known that American vessels bound confessedly to England, have, before the 1st of November, been visited by French privateers, and suffered to pass, upon the foundation of the prospective repeal of the decree of Berlin, and the proximity of the day when it would become an actual one.

If there are not even stronger facts to show that the decree of Milan is also withdrawn, your Lordship can be at no loss for the reason. It cannot be proved that an American vessel is practically held by France; nor to be *denationalized* by British visitation, because your cruisers visit only to capture, and compel the vessel visited to terminate her voyage, not in France, but in England. You will not ask for the issue of an experiment which yourselves intercept, nor complain that you have not received evidence, which is not obtained, because you have rendered it impossible. The vessel which formed the subject of my note of the 8th instant, and another more recently seized as prize, would, if they had been suffered, as they ought, to resume their voyages, after having been stopped and examined by English cruisers, have furnished on that point unanswerable proof; and I have reason to know that precise offers have been made to the British Government to put to a practical test the disposition of France in this respect, and that those offers have been refused. Your cruisers, however, have not been able to visit all American vessels bound to France

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and it is understood that such as have arrived have been received with friendship.

I cannot quit this last question without entering my protest against the pretension of the British Government to postpone the justice which it owes to my Government and country, for this tardy investigation of consequences. I am not able to comprehend upon what the pretension rests, nor to what limits the investigation can be subjected. If it were even admitted that France was more emphatically bound to repeal her almost nominal decrees than Great Britain to repeal substantial orders, (which will not be admitted,) what more can reasonably be required by the latter than has been done by the former? The decrees are officially declared by the Government of France to be repealed. They were ineffectual as a material prejudice to England before the declaration, and must be ineffectual since. There is, therefore, nothing of substance for this dilatory inquiry, which, if once begun, may be protracted without end, or at least till the hour for just and prudent decision has passed. But, if there were room to apprehend that the repealed decrees might have some operation in case the Orders in Council were withdrawn, still, as there is no sudden and formidable peril to which Great Britain could be exposed by that operation, there can be no reason for declining to act at once upon the declaration of France, and to leave it to the future to try its sincerity, if that sincerity be suspected.

I have thus disclosed to your Lordship, with that frankness which the times demand, my view of a subject deeply interesting to our respective countries. The part which Great Britain may act on this occasion cannot fail to have important and lasting consequences, and I can only wish that they may be good.

By giving up her Orders in Council and the blockades, to which my letter of the 21st of September relates, she has nothing to lose in character or strength. By adhering to them, she will not only be unjust to others, but unjust to herself.

I have the honor to be, &c.

WM. PINKNEY.

The MARQUIS WELLESLEY.

Mr. Pinkney to the Secretary of State.

LONDON, December 22, 1810.

SIR: I received on the 20th instant, from Liverpool, your letter of the 19th of October, the only one yet received of a date subsequent to the 17th of July.

My letter of the 14th of November will show that I had myself resolved upon the course of proceeding which the last paragraph of your letter indicates. I now wait only for the restoration of the capacity of the Government.

I presume that my note to Lord Wellesley of the 21st of September will be considered as having anticipated such parts of your letter as relate to blockades. No answer of any sort has been given to that note, but I will not fail to take the first occasion to reinforce it, by enlarging on the

considerations to which you allude. In my opinion the subject cannot be too much pressed, nor the importance of it exaggerated. If such blockades are to continue, we shall have got rid of the orders of 1807 and 1809 in vain.

You will perceive that, in my note above-mentioned, I undertook to mention the blockade of the whole island of Zealand, as one of those paper blockades to which the United States objected; that, in my note of the 25th of August, that blockade was comprehended under the general description of such orders as were "analogous to" the Orders in Council of 1807 and 1809; and that in my late note (of the 10th instant,) I have urged the revocation of all the blockades to which my note of the 21st of September related.

I had no instructions to warrant me in representing any other blockade than that of May, 1806, as indispensable in the view of our laws concerning commercial intercourse with Great Britain and France. I have endeavored, however, so to shape my different notes to Lord Wellesley, as that, when taken together, they may be considered to embrace the whole of the paper blockades, for every purpose, or only for particular purposes, as future instructions or convenience might require.

Upon the subject of impressments, I need not say anything, as the affair of the Chesapeake has not been adjusted. For other matters, I refer you to the newspapers.

I have the honor to be, &c.

WM. PINKNEY.

FRANCE.

[The following documents were transmitted to Congress by the President's Messages of December 5, 1810, and January 14, January 31, and February 19, 1811.]

*To the House of Representatives of the United States:*

I transmit to the House of Representatives copies of the documents referred to in their resolution of the 4th instant.

JAMES MADISON.

JANUARY 14, 1811.

*To the Senate and House of*

*Representatives of the United States:*

I lay before Congress a letter from the Chargé des Affaires of the United States at Paris to the Secretary of State; and another from the same to the French Minister of Foreign Relations; also two letters from the agent of the American Consul at Bordeaux to the Secretary of State.

JANUARY 31, 1811.

Extract—Mr. Armstrong to Mr. Smith, Secretary of State.

PARIS, January 28, 1810.

M. Champagny stated that the order given, in relation to our ships, &c., in Spain, was a regular consequence of the system declared in his let-

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ter of the 22d August last, and which had been promulgated throughout the United States. "It is obvious," he added, "that His Majesty cannot permit to his allies a commerce which he denies to himself. This would be at once to defeat his system and oppress his subjects, by demanding from them great and useless sacrifices; for, if the system be not strictly observed everywhere, it cannot anywhere produce the effects expected from it. Still," he said, "the property is only sequestered, and becomes a subject of the present negotiation." As our remonstrances have been sufficiently frequent and free, as this was a meeting merely of conciliation, and as the closing remark of the Minister indicated rather the policy of looking forward to our rights than backward on our wrongs, I thought it most prudent to suppress the obvious answers which might have been given to his observations, and which, under other circumstances, should not have been omitted. I accordingly contented myself with expressing a hope that our future intercourse should be a competition only of good offices.

In conformity to the suggestions contained in your letter of the 1st of December, 1809, I demanded whether, if Great Britain revoked her blockades of a date anterior to the decree, commonly called the Berlin decree, His Majesty the Emperor would consent to revoke the said decree? To which the Minister answered, that "the only condition, required for the revocation by His Majesty of the decree of Berlin, will be a previous revocation by the British Government of her blockade of France, or part of France, (such as that from the Elbe to Brest,) of a date anterior to that of the aforesaid decree; and that, if the British Government would then recall the Orders in Council which had occasioned the decree of Milan, that decrees should also be annulled." Our interview closed here, and we have had no meeting, either accidental or by rendezvous, since.

Extract of a letter from the same to the same.

PARIS, February 17, 1810.

The note from M. Champagny, a copy of which is enclosed, was received yesterday.

This goes by the way of England, and may not be much later in reaching you than my despatch of the 28th ultimo, which took the same road.

[Enclosed in the preceding despatch.]

PARIS, February 14, 1810.

The undersigned has rendered an account to His Majesty, the Emperor and King, of the conversation he has had with Mr. Armstrong, Minister Plenipotentiary of the United States of America. His Majesty authorizes him to give the following answer.

His Majesty should consider his decrees of Berlin and Milan as violating the principles of eternal justice, if they were not the compelled consequence of the British Orders in Council, and, above all, of those of November, 1807. When England has proclaimed her sovereignty universal, by the pretension of subjecting the universe

to a tax on navigation, and by extending the jurisdiction of her Parliament over the industry of the world, His Majesty thought that it was the duty of all independent nations to defend their sovereignty, and to declare as denationalized (*denationalisés*) those vessels which should range themselves under the domination of England, by recognising the sovereignty which she arrogated over them.

His Majesty distinguishes the search (*la visite*) from the recognition (*reconnaissance*) of the vessel. The recognition has no other end than to ascertain the reality of the flag. The search is an anterior inquest held, although the verity of the flag be ascertained, and of which the result is either the impressment of individuals, or the confiscation of merchandise, or the application of arbitrary laws or regulations.

His Majesty could place no reliance on the proceedings of the United States, who, having no ground of complaint against France, comprised her in their acts of exclusion, and, since the month of May, have forbidden the entrance of their ports to French vessels, under the penalty of confiscation. As soon as His Majesty was informed of this measure, he considered himself bound to order reprisals on American vessels, not only in his territory, but likewise in the countries which are under his influence. In the ports of Holland, of Spain, of Italy, and of Naples, American vessels have been seized, because the Americans have seized French vessels. The Americans cannot hesitate as to the part which they are to take; they ought either to tear to pieces the act of their independence, and to become again, as before the Revolution, the subjects of England, or to take such measures as that their commerce and industry should not be tarified (*tarifés*) by the English, which renders them more dependent than Jamaica, which, at least, has its Assembly of Representatives and its privileges. Men, without just political views, (*sans politique*), without honor, without energy, may allege that payment of the tribute, imposed by England, may be submitted to because it is light; but why will they not perceive that the English will no sooner have obtained the admission of the principle, than they will raise the tariff in such way, that the burden, at first light, becoming insupportable, it will then be necessary to fight for interest, after having refused to fight for honor?

The undersigned avows, with frankness, that France has everything to gain from receiving well the Americans in her ports. Her commercial relations with neutrals are advantageous to her. She is, in no way, jealous of their prosperity. Great, powerful, and rich, she is satisfied when, by her own commerce or by that of neutrals, her exportations give to her agriculture and her fabrics the proper development.

It is now thirty years since the United States of America founded, in the bosom of the new world, an independent country at the price of the blood of so many immortal men who perished on the field of battle, to throw off the leaden yoke of the English monarch. These generous men

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were far from supposing, when they thus sacrificed their blood for the independence of America, that there would so soon be a question whether there should be imposed upon it a yoke more heavy than that which they had thrown off, by subjecting its industry to a tariff of British legislation, and to the Orders in Council of 1807.

If, then, the Minister of America can enter into an engagement that the American vessels will not submit to the Orders in Council of England of November, 1807, nor to any decree of blockade, unless this blockade should be real, the undersigned is authorized to conclude every species of convention tending to renew the Treaty of Commerce with America, and in which all the measures proper to consolidate the commerce and the prosperity of the Americans shall be provided for.

The undersigned has considered it his duty to answer the verbal overtures of the American Minister by a written note, that the President of the United States may the better know the friendly intentions of France towards the United States, and her favorable dispositions to American commerce.

The undersigned prays Mr. Armstrong to accept the assurances of his high consideration.

CHAMPAGNY, *Duc de Cadore.*

Mr. Armstrong to Mr. Smith.

PARIS, *February 18, 1810.*

SIR: I wrote a few lines to you yesterday, announcing the receipt and transmission of a copy of the Duke of Cadore's note to me of the 14th instant.

After much serious reflection, I have thought it best to forbear all notice, at present, of the errors, as well of fact as of argument, which may be found in the introductory part of this note, to take the Minister at his word, to enter at once upon the proposed negotiation, and, for this purpose, to offer to him a project for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and, perhaps, of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a treaty in which neither our rights nor our wrongs will be forgotten; if otherwise, there will be enough both of time and occasion to do justice to their policy and our own by a free examination of each.

With great respect, &c.

JOHN ARMSTRONG.

Hon. ROBERT SMITH, &c.

Extract—General Armstrong to Mr. Smith.

PARIS, *March 10, 1810.*

I have at length received a verbal message in answer to my note of the 21st ultimo. It was from the Minister of Foreign Relations, and in the following words: "His Majesty has decided to sell the American property seized in Spain

but the money arising therefrom shall remain in depot." This message has given occasion to a letter from me [annexed] in a temper somewhat different from that of the 18th February.

[Referred to in Mr. Armstrong's despatch of March, 10, 1810.]

General Armstrong to the Duke of Cadore.

PARIS, *March 10, 1810.*

SIR: I had yesterday the honor of receiving a verbal message from your Excellency, stating that His Majesty had decided that the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in depot.

On receiving this information, two questions suggested themselves:

1st. Whether this decision was, or was not, extended to ships as well as to cargoes? and,

2d. Whether the money arising from the sales which might be made under it, would, or would not, be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your Excellency, and to request a solution of them. Nor is it less a duty on my part to examine the ground on which His Majesty has been pleased to take this decision, which I understand to be that of reprisal, suggested for the first time in the note you did me the honor to write to me on the 14th ultimo. In the fourth paragraph of this note, it is said, that His Majesty could not have calculated on the measures taken by the United States, who, having no grounds of complaint against France, have comprised her in their acts of exclusion, and since the month of May last, have prohibited the entry into their ports of French vessels, by subjecting them to confiscation." It is true that the United States have, since the 20th of May last, forbidden the entry of French vessels into their harbors. And it is also true, that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to use the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means. What does it more than forbid American ships from going into the ports of France, and French ships from coming into those of the United States? And why this prohibition? To avoid injury and insult; to escape that lawlessness, which is declared to be a "forced consequence of the decrees of the British Council." If, then, its object be purely defensive, what are its means? Simply a law, previously and generally promulgated, operating solely within the territory of the United States, and punishing alike the infractors of it, whether citizens of the said States, or others. And what is this but the exercise of a right, common to all nations, of excluding, at their will, foreign commerce, and of enforcing that exclusion? Can this be deemed

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a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a Power who makes it the first duty of nations to defend their sovereignty, and who even denationalize the ships of those who will not subscribe to the opinion?

But it has been said that "the United States have nothing to complain of against France." Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea, nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law and admitted to regular entry at the imperial custom-houses, nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a public treaty, nothing? In a word, was it nothing that our ships were burnt on the high seas without other offence than that of belonging to the United States, or other apology than was to be found in the enhanced safety of the perpetrators? Surely, if it be the duty of the United States to resent theoretical usurpations of the British orders of November, 1807, it cannot be less their duty to complain of the daily and practical outrages on the part of France. It is indeed true, that were the people of the United States destitute of policy, of honor, and of energy, (as has been insinuated,) they might have adopted a system of discrimination between the two great belligerents. They might have drawn imaginary lines between the first and second aggressor. They might have resented in the one a conduct to which they tamely submitted in the other, and, in this way, have patched up a compromise between honor and interest, equally mean and disgraceful. But such was not the course they pursued: and it is, perhaps, a necessary consequence of the justice of their measures, that they are at this day an independent nation. But I will not press this part of my subject. It would be affrontful to your Excellency, (knowing, as you do, that there are not less than one hundred American ships within His Majesty's possession, or that of his allies,) to multiply proofs that the United States have grounds of complaint against France.

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your Excellency, "as His Majesty was informed of this measure, (the non-intercourse law,) it became his duty to retaliate upon the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy, and Naples, the American vessels have been seized, because the Americans had seized French vessels."

These remarks divide themselves into the following heads:

1st. The right of His Majesty to seize and confiscate American vessels within his own territories.

2d. The right to do so within the territories of his allies? and

3d. The reason of that right, viz: because Americans had seized French vessels.

The first of these subjects has been already examined, and the second must be decided like the first, since His Majesty's rights within the limits of his ally cannot be greater than within his own. If, then, it has been shown that the non-intercourse law was merely defensive in its object, that it was but intended to guard against that state of violence which unhappily prevailed, that it was restricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution, it will be almost unnecessary to repeat, that a law of such description cannot authorize a measure of reprisal, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of His Majesty's territories, and within those of sovereigns who had even invited the commerce of the United States to their ports.

It is, therefore, the third subject only, the *reason of the right*, which remains to be examined; and with regard to it I may observe, that, if the alleged fact which forms this reason be unfounded, the reason itself fails, and the right with it. In this view of the business, I may be permitted to inquire, when and where any seizure of a French vessel has taken place under the non-intercourse law? and at the same time to express my firm persuasion that no such seizure has been made—a persuasion founded alike on the silence of the Government and of the journals of the country, and still more on the positive declaration of several well-informed and respectable persons, who have left America as late as the 26th December last. My conclusion, therefore, is, that no French vessel having violated the law, no seizure of such vessel has occurred, and that the report which has reached Paris is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in His Majesty's sentiments with regard to the defensive system adopted by the United States.

The law which is now believed to furnish the ground for reprisal, was communicated to His Majesty in June or July last, and certainly did not then excite any suspicion of feeling unfriendly to the American Government. Far from this, its communication was immediately followed by overtures of accommodation, which, though productive of no positive arrangement, did not make matters worse than they found them.

On the 22d of August last I was honored with a full exposition of the views and principles that had governed, and which should continue to govern, His Majesty's policy in relation to the United States, and in this we do not find the slightest trace of complaint against the provisions of the law in question.

At a period later than the 22d of August, an



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American ship, destined to a port of Spain, was captured by a French privateer. An appeal was made to His Majesty's Minister of War, who, having submitted the case, received orders to liberate all American vessels destined to Spanish ports which had not violated the imperial decrees. Another American ship, at a point of time still later than the capture of the preceding, was brought into the port of Bayonne; but, having violated no law of His Majesty, was acquitted by his Council of Prizes; and lastly, in the long conversation I had the honor of holding with your Excellency, on the 25th of January, no idea of reprisal was maintained by you, nor suspected by me; but, on the contrary, in speaking of the seizure of American property in Spain, you expressly declared that it was not a confiscation.

Can proofs be more conclusive; that from the first promulgation of the law down to the 25th of January last, nothing in the nature of reprisal was contemplated by His Majesty?

What circumstance may have since occurred to produce a change in his opinion, I know not; but the confidence I feel in the open and loyal policy of His Majesty altogether excludes the idea that the rule was merely found for the occasion, and made to justify seizures not otherwise justifiable.

I pray your Excellency to accept, &c.

Extracts—Mr. Armstrong to Mr. Smith.

PARIS, April 4, 1810.

After seven weeks' detention in England, the John Adams has at length got back to France. She arrived in the roads of Havre on the 28th ultimo.

I informed M. Champagny, first, that Mr. Pinkney had not been able to send by this conveyance the result of his application to the British Government concerning the blockades of France prior to the Berlin decree; but that he hoped to be able to send it in a few days by another conveyance; and, secondly, that if he (M. Champagny) had anything to communicate which would have the effect of changing the present relations of the two countries, and which he wished to be early known to the Government of the United States, he would do well to let me know it within twenty-four hours, as the messenger would leave Paris within that time. To this message I received from him the following answer: "That for some days past nothing in the nature of business, and unconnected with the marriage of the Emperor, could be transacted; and that for some days to come the same cause of delay would continue to operate; that my letters were still before the Emperor, and that he would seize the first moment to get some decision in relation to them." Thus, you see, everything is yet in air.

General Armstrong to Mr. Smith.

PARIS, April 16, 1810.

SIR: The John Adams being yet detained, I am able to inform you that on the 11th instant

the Emperor directed the sale of all the American vessels taken in the ports of Spain, and that the money arising therefrom should be placed in his *caisse privé*. He has also refused to give up the *Hero*, and has ordered that the case be brought before the Council of Prizes, where condemnation necessarily awaits it. I send a copy of a note upon which this last order was taken, and another relating to our business in Naples; and am, with very high consideration, your most obedient and very humble servant.

JOHN ARMSTRONG.

Hon. Mr. SMITH, &c.

Copy of Mr. Pinkney's letter to General Armstrong, dated

LONDON, March 23, 1810.

DEAR SIR: Although I have detained the corvette much longer than I wished, I am not able to send you the result of my application to this Government concerning the British blockades of France prior to the Berlin decree. I expect to receive it in a very few days, and will immediately forward it to you by Mr. Lee, by the way of Morlaix, for it seems that the French Government will not permit a messenger to land at any other port.

I have the honor to be, &c.

WILLIAM PINKNEY.

His Ex'cy General ARMSTRONG.

Extracts—Mr. Armstrong to Mr. Smith.

PARIS, May 3, 1810.

Mr. Lee arrived here some days ago with two letters from Mr. Pinkney, copies of which, with my answers, are enclosed.

I need scarcely observe how impossible it is for me to make this or any similar statement the groundwork of a new demand for a repeal of the Berlin decree.

[Referred to in Mr. Armstrong's letter of May 3, 1810.]

Mr. Pinkney to Mr. Armstrong.

LONDON, March 27, 1810.

SIR: I had the honor to receive, by Mr. Powell, your letter of the 25th of January. In pursuance of my instructions, I have addressed a letter to the Marquis Wellesley, His Britannic Majesty's principal Secretary of State for Foreign Affairs, inquiring whether any, and, if any, what blockades of France instituted by Great Britain during the present war before the 1st of January, 1807, are understood by this Government to be in force? Lord Wellesley's reply to that letter not being so explicit as I wished, I have written a second letter requesting explanation. In his Lordship's answer to my second letter, I am informed that the blockade notified by Great Britain in May, 1806, (from the Elbe to Brest,) has never been formally withdrawn, but that the restrictions which that blockade established are comprehended under the more extensive restrictions of the Order in Council of the 7th of January, 1807, and that no other blockade of the ports of France was instituted by

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Great Britain between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I have the honor to be, &c.

WILLIAM PINKNEY.

His Ex'cy General ARMSTRONG, &c.

[Referred to in Mr. Armstrong's letter of May 3, 1810.]

Mr. Pinkney to General Armstrong.

LONDON, April 6, 1810.

Sir: I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain a recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an Order in Council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, (and of that of Venice,) or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon, (if, indeed, they can be obtained at all,) I will not detain Mr. Lee, but I will send you another messenger, (Mr. Craig, of Philadelphia,) in the course of three or four weeks, with the result of my endeavors. In the meantime, such use can be made of my communication of the 7th ultimo as you may deem advisable.

I have the honor to be, &c.

[Referred to in Mr. Armstrong's despatch, May 3, 1810.]

Extract of a letter from General Armstrong to Mr. Pinkney, dated

PARIS, May 2, 1810.

I have received your three letters of the 3d and 27th of March, and 6th of April. Accept my thanks for your friendly attention with regard to the passport, and express to Lord Wellesley the sense I have of his Lordship's politeness, and the pleasure it would give me to make this acknowledgment in person. The doubt with which you begin your letter of the 6th instant is well founded. The explanation you have received is not such as will enable me to demand the performance of the Emperor's promise (communicated to you in my letter of the 25th of January last,) since it (the explanation) not only admits that the British order of blockade of May, 1806, is not formally withdrawn, but that that of the 27th of July, of the same year, is still in force. An argument in the face of these admissions, and founded merely on the operation of an order of ulterior date, and more extensive restriction, must not be hazarded, as it would be not merely useless, but productive of mischief.

Extract—Mr. Armstrong to Mr. Smith.

PARIS, May 24, 1810.

Some circumstances have occurred since the date of my despatch by Mr. Ronaldson, which, from their importance, make a speedy conveyance necessary. These I shall detail as briefly as possible.

1st. On the 14th instant, was published here in the official and other journals, a decree of the Emperor, dated at Rambouillet, on the 23d of March last, directing the seizure and sale of all American vessels which had entered the ports of the Empire, or of its dependencies, since the 20th of May last, &c.

2d. Four commisssoners have been sent to Amsterdam, with orders to take possession of the American property to be found there agreeably to the tenth article of the late treaty between France and Holland; and

3d. Several of our ships and cargoes, with regard to which compromises have been made under the sanction of the Council of Prizes, have been seized again, to satisfy the provisions of the new decree.

[Referred to in Mr. Armstrong's despatch of May 24.]

Translation of a decree issued by the Emperor of the French, at Rambouillet, March 23, 1810.

NAPOLEON, &c.

Considering that the Government of the United States, by an act dated 1st March, 1809, which forbids the entrance of the ports, harbors, and rivers of the said States to all French vessels, orders, 1st. That after the 20th of May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated, as well as their cargoes; 2d. That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any port or place whatsoever, under the penalty of seizure, confiscation, and a fine of three times the value of the merchandise; 3d. That American vessels cannot go to any port of France, of her colonies, or dependencies: We have decreed, and do decree, what follows:

ART. 1st. All vessels navigating under the flag of the United States, or possessed in whole or in part, by any citizen or subject of that Power, which, counting from the 20th of May, 1809, have entered or shall enter into the ports of our Empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund (*caisse d'amortissement*.)

There shall be excepted from this regulation the vessels which shall be charged with despatches, or with commissions of the Government of the said States, and who shall not have either cargoes or merchandise on board.

Our Grand Judge, Minister of Justice, and our Minister of Finance, are charged with the execution of our present decree.

NAPOLEON.

The Secretary of State to General Armstrong.

DEPARTMENT OF STATE, June 5, 1810.

Sir: Your letters of the 17th, 18th, and 21st of February, and 10th, 15th, 21st, and 24th of March, with their several enclosures, were received on the 21st of May.

As the "John Adams" is daily expected, and

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as your further communications by her will better enable me to adapt to the actual state of our affairs with the French Government the observations proper to be made in relation to their seizure of our property, and to the letter of the Duke of Cadore of the 14th of February, it is by the President deemed expedient not to make, at this time, any such animadversions. I cannot, however, forbear informing you that a high indignation is felt by the President, as well as by the public, at this act of violence on our property, and at the outrage, both in the language and in the matter of the letter of the Duke of Cadore, so justly portrayed in your note to him of the 10th of March.

The particular object of this letter is to add to my despatches of the 4th and 22d of May another chance of hastening into your hands a copy of the act of Congress of the last session, concerning the commercial intercourse between the United States and Great Britain and France.

In the fourth section of this act, you will perceive a new modification of the authority given to the President. If there be sincerity in the language held at different times by the French Government, and especially in the late overture, to proceed to amicable and just arrangements in case of our refusal to submit to the British Orders in Council, no pretext can be found for longer declining to put an end to the decrees of which the United States have so justly complained. By putting in force, agreeably to the terms of this statute, the non intercourse against Great Britain, the very species of resistance would be made which France has been constantly representing as most efficacious. It may be added, that the form in which the law now presents the overture is as well calculated as the overture itself to gain a favorable attention, inasmuch as it may be regarded by the belligerent first accepting it as a promise to itself, and a threat only to its adversary.

If, however, the arrangement contemplated by the law should be acceptable to the French Government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground short of a preliminary restoration of the property, on which the contemplated arrangement can be made, will be an understanding that the confiscation is reversible, and that it will become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to Gen. Armstrong.

DEPARTMENT OF STATE, *July 2, 1810.*

SIR: The enclosed is a copy of a letter of instruction to Mr. Pinkney, bearing the same date with this letter. You will thence perceive, that

if the answer to the British Government to the representation and requisition which our Minister at London may make should be of a satisfactory nature, it will be transmitted to you without delay.

In that case, you will make a proper use of it for obtaining a repeal of the Berlin decree, and you will proceed, concurrently with Mr. Pinkney, in bringing about successive removals by the two Governments of all their predatory edicts.

I avail myself of this occasion to state to you, that it is deemed of great importance that our Ministers at foreign Courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to Gen. Armstrong.

DEPARTMENT OF STATE, *July 5, 1810.*

SIR: The arrival of the John Adams brought your letters of the 1st, 4th, 7th, and 16th April.

From that of the 16th April, it appears that the seizures of the American property lately made had been followed up by its actual sale, and that the proceeds had been deposited in the Emperor's *caisse privé*. You have presented in such just colors the enormity of this outrage, that I have only to signify to you that the President entirely approves the step that has been taken by you, and that he does not doubt that it will be followed by you, or the person who may succeed you, with such further interpositions as may be deemed advisable. He instructs you particularly to make the French Government sensible of the deep impression made here by so signal an aggression on the principles of justice and good faith, and to demand every reparation of which the case is susceptible. If it be not the purpose of the French Government to remove every idea of friendly adjustment with the United States, it would seem impossible but that a reconsideration of this violent proceeding must lead to a redress of it, as a preliminary to a general accommodation of the differences between the two countries.

At the date of the last communication from Mr. Pinkney, he had not obtained from the British Government an acceptance of the condition on which the French Government was willing to concur in putting an end to all the edicts of both against our neutral commerce. If he should afterward have succeeded, you will, of course, on receiving information of the fact, immediately claim from the French Government the fulfillment of its promise; and by transmitting the result to Mr. Pinkney, you will co-operate with him in completing the removal of all the illegal obstructions to our commerce.

Among the documents now sent is another copy of the act of Congress repealing the non-intercourse law, but authorizing a renewal of it against Great Britain in case France shall repeal her edicts, and Great Britain refuse to follow the example, and *vice versa*. You have been already

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informed that the President is ready to exercise the power vested in him for such a purpose, as soon as the occasion shall arise. Should the other experiment, in the hands of Mr. Pinkney, have failed, you will make the act of Congress, and the disposition of the President, the subject of a formal communication to the French Government; and it is not easy to conceive any ground, even specious, on which the overture, specified in the act, can be declined.

If the non-intercourse law, in any of its modifications, was objectionable to the Emperor of the French, that law no longer exists.

If he be ready, as has been declared in the letter of the Duke of Cadore of February 14th, to do justice to the United States in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the non-intercourse against Great Britain to oppose to her Orders in Council a measure, which is of a character that ought to satisfy any reasonable expectation.

If it should be necessary for you to meet the question, whether the non-intercourse will be renewed against Great Britain in case she should not comprehend in the repeal of her edicts her blockades, which are not consistent with the law of nations, you may, should it be found necessary, let it be understood that a repeal of the illegal blockades, of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and of course identified with, the Orders in Council. With respect to blockades, of a subsequent date or not, against France, you will press the reasonableness of leaving them, together with future blockades, not warranted by public law, to be proceeded against by the United States in the manner they may choose to adopt.

As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized, by the order or at the instance of the French Government, must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain; such a provision being an indispensable evidence of the just purpose of France toward the United States. And you will, moreover, be careful, in arranging such a provision for that particular case of spoiliations, not to weaken the ground on which a redress of others may be justly pursued.

If the act of Congress, which has legalized a free trade with both the belligerents, without guarding against British interruptions of it with France, while France cannot materially interrupt it with Great Britain, be complained of, as leaving the trade on the worst possible footing for France, and on the best possible one for Great Britain, the French Government may be reminded of the other feature of the act, which puts it in their own power to obtain either an interruption of our trade with Great Britain, or a recall of her interruption of it with France.

Among the considerations which belong to this subject, it may be remarked, that it might have been reasonably expected by the United States that a repeal of the French decrees would have resulted from the British Order in Council of April, 1809. This order expressly revoked the preceding orders of November, 1807, heretofore urged by France in justification of her decrees, and was not only different in its extent and in its details, but was essentially different in its policy.

The policy of the orders of 1807 was, by cutting off all commercial supplies, to retort on her enemies the distress which the French decree was intended to inflict on Great Britain.

The policy of the order of April, 1809, if not avowedly, was most certainly to prevent such supplies, by shutting out those only which might flow from neutral sources, in order thereby to favor a surreptitious monopoly to British traders. In order to counteract this policy, it was the manifest interest of France to have favored the rival and cheaper supplies through neutrals; instead of which, she has co-operated with the monopolizing views of Great Britain, by rigorous exclusion of neutrals from her ports. She has, in fact, reversed the operation, originally professed by her decree. Instead of annoying her enemy at the expense of a friend, she annoys a friend for the benefit of her enemy.

If the French Government should accede to the overture contained in the act of Congress, by repealing or so modifying its decrees as that they will cease to violate our neutral rights, you will, if necessary, transmit the repeal, properly authenticated, to Mr. Pinkney, by a special messenger, and you will hasten and insure the receipt of it here, by engaging a vessel, if no equivalent conveyance should offer, to bring it directly from France, and by sending several copies to Mr. Pinkney, to be forwarded from British ports.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to Gen. Armstrong.

DEPARTMENT OF STATE, *July 17, 1810.*

SIR: You will herewith receive duplicates of my letters to you of the 20th June, and 2d and 5th of July.

This despatch you will receive from Lieutenant Miller of the Navy, who is to proceed from New York in the sloop of war the *Hornet*. This public vessel has been ordered to England, and to France, not only for the purpose of transmitting despatches to you and to our Minister in London, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this Department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the Governments of England and France. And, with a view to insure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the 1st day of October next. With respect, therefore, to the time

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you will detain Mr. Miller in Paris, you will be influenced by the information which you may receive from him as to the orders he may have from the commanding officer of the Hornet.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Extracts—Mr. Armstrong to Mr. Smith.

PARIS, August 5, 1810.

I had this morning the honor of receiving the enclosed note from the Duke of Cadore, informing me that the Imperial decrees of Berlin and Milan are revoked. I shall communicate this fact as promptly as possible to Mr. Pinkney.

I shall obtain a specific revocation of the decree of the 23d of March last; but it ought to be known to you that this decree has had no operation since my first unofficial communication of the law of the 1st of May.

[Referred to in Mr. Armstrong's letter of August 5.]

The Duke of Cadore to General Armstrong.

PARIS, August 5, 1810.

SIR: I have laid before His Majesty, the Emperor and King, the act of Congress of the 1st of May, taken from the Gazette of the United States, which you have sent to me.

His Majesty could have wished that this act, and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long interval of time. There have resulted from this delay serious inconveniences, which would not have existed if these acts had been promptly and officially communicated.

The Emperor had applauded the general embargo laid by the United States on all their vessels, because that measure, if it has been prejudicial to France, had in it at least nothing offensive to her honor. It has caused her to lose her colonies of Martinique, Guadeloupe, and Cayenne; the Emperor has not complained of it. He has made this sacrifice to the principle which had determined the Americans to lay the embargo, inspiring them with the noble resolution of interdicting to themselves the ocean, rather than to submit to the laws of those who wished to make themselves the tyrants (*les dominateurs*) of it.

The act of 1st March has raised the embargo, and substituted for it a measure the most injurious to the interests of France.

This act, of which the Emperor knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Repression was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise (*de transiger*.) The sequestration of all the American ves-

sels in France, has been the necessary consequence of the measure taken by Congress.

Now Congress retrace their steps, (*revient sur ses pas*;) they revoke the act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans; in short, Congress engages to oppose itself to that one of the belligerent Powers which should refuse to acknowledge the right of neutrals.

In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council, and renounce the new principles of blockade, which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch, the Emperor is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the Emperor will consider as conformable with the interests of his Empire.

Accept, sir, the assurance of my high consideration,

CHAMPAGNY, Duc de Cadore.

His Exc<sup>y</sup> Gen. ARMSTRONG, &c.

General Armstrong to the Duke of Cadore. [No date.]

SIR: The enclosed copy of the law of the United States of the 1st of May last, has been transmitted to me officially by the Secretary of State, and I hasten to lay it before your Excellency. It will supply any want of authenticity which may be found in that already communicated.

In making this second communication of the law, I cannot but recall to your recollection an inference injurious either to my Government, or to myself, which may be drawn from the first paragraph of the letter you did me the honor to write to me on the 5th instant. In this paragraph it is said: "S. M. aurait désiré que cet acte, et tous les autres actes du Gouvernement des Etats Unis, qui peuvent intéresser la France, lui eussent toujours été notifiés officiellement. En général, elle n'en a eu connaissance qu'indirectement, et après un long intervalle du temps. Il résulte de ce retard des inconveniens grave, qui n'auraient pas lieu, si ces actes étaient promptement et officiellement communiqués." ["His Majesty could have wished, that this act and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long

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interval of time. There have resulted from this delay serious inconveniences, which would not have existed, if these acts had been promptly and officially communicated.”]

From these words it may be inferred, either that the United States have been habitually negligent in transmitting to me such of their acts as concern France, or that I have neglected to perform my duty, in not presenting those acts with sufficient promptitude.

In looking back on the public measures of the United States, which in any way interest France, I find but the following, viz:

1st. An act prohibiting commercial intercourse between the United States and St. Domingo.

2d. An act laying an embargo on the ships or other vessels of the United States.

3d. An act prohibiting all commercial intercourse between the United States and France.

4th. An arrangement made between the Secretary of State of the United States, and the Minister of His Britannic Majesty at Washington; and,

5th. The late act of the 1st of May. Now of these, all have been presented officially; and, making a proper allowance for the remoteness of the United States from France, with sufficient promptitude, excepting the last, which (from causes unknown to me) did not reach Paris until yesterday. Your Excellency can at any time ascertain the correctness of this statement by referring to the archives of your own Department.

I have the honor to be, &c.

JOHN ARMSTRONG.

Extract—Mr. Armstrong to Mr. Smith.

PARIS, Sept. 10, 1810.

Since the date of my last despatch, (by Mr. Jarvis,) nothing has occurred worth communicating, until yesterday, when I received the letter from the Duke of Cadore, of which No. 1 (enclosed) is a copy. By this it will be seen that the decree of Rambouillet is not in operation, and that American ships, entering the ports of France before the 1st of November next, will be judged under the decrees of Berlin and of Milan.

No. 2 is the copy of a note written to Mr. Champagny, with a view of drawing from him something explicit on the point of which it treats. The first of these may appear to have been useless, after the declaration of that Minister, that American ships, which will hereafter arrive in the ports of France, shall not be subject to confiscation; but understanding from the Council of Prizes, that, until some act be taken which had the effect of recalling by name the decree of the 23d March last, they must continue to consider it both as existing and operative, and of course, binding upon them, I hastened to present the subject again, and in a form which leaves no room for misunderstanding.

SEPTEMBER 12.

I have the honor to enclose copies of two letters from the Duke of Cadore, one of which is an an-

swer to my note of the 8th instant. To the question, whether we had anything to expect in reparation for past wrongs? they reply, that their act being of reprisal, the law of reprisal must govern: in other words, that, if you *confiscate French property under the law of non-intercourse, they will confiscate your property under their decree of Rambouillet*. The words underscored are the verbal explanation which accompanied the letter.

I set out this day for Bordeaux, (on my way to the United States,) and hope to begin my voyage from that port on the 1st. October next.

[Referred to in Mr. Armstrong's despatch of Sept. 10, 1810.]

No. 1.

The Duke of Cadore to Mr. Armstrong.

PARIS Sept. 7. 1810.

SIR: You have done me the honor to ask of me, by your letter of the 20th August, what will be the lot of the American vessels which may arrive in France before the 1st of November?

His Majesty has always wished to favor the commerce of the United States. It was not without reluctance that he used reprisal towards the Americans, while he saw that Congress had ordered the confiscation of all French vessels which might arrive in the United States.

It appears that Congress might have spared to His Majesty and his subjects this mortification, (*ce désagrément*) if, in place of that harsh and decisive measure, which left to France no choice, they had used some palliative, such as that of not receiving French vessels, or of sending them away after a delay of so many days.

As soon as His Majesty was informed of this hostile act, he felt that the honor of France, involved in this point, could not be cleansed (*ne pouvait être lavé*) but by a declaration of war, which could not take place but by tedious explanations.

The Emperor contented himself with making reprisals, and, in consequence, he applied to American vessels which came to France, or to the countries occupied by the French armies, word for word, the regulations of the act of Congress.

Since the last measures, by which that hostile act is repealed, His Majesty hastens to cause it to be made known to you, that he anticipates that which may re-establish harmony with the United States and that he repeals his decree of Berlin and Milan, under the conditions pointed out in my letter to you of the 5th August.

During this interval, the American vessels which shall arrive in France will not be subjected to confiscation, because the act of Congress which had served as a motive to our reprisals, is repealed; but these vessels will be subjected to all the effects of the Berlin and Milan decrees; that is to say, they will be treated amicably, if they can be considered as Americans, and hostilely, if they have lost their national character, (*s'ils se sont laissés dénationalisés*) by submitting to the Orders in Council of the British Government.

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I have the honor to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY, *Duc de Cadore.*

His Exc'y Gen. ARMSTRONG, &c.

No. 2.

[Referred to in Mr. Armstrong's despatch of Sept. 10.]

General Armstrong to the Duke of Cadore.

PARIS, Sept. 7, 1810.

SIR: Your Excellency will not think me importunate, if I should employ the last moments of my stay in Paris in seeking an explicit declaration on the following points:

1st. Has the decree of His Majesty of the 23d of March last, enjoining acts of reprisal against the commerce of the United States, on account of their late law of non-intercourse, been recalled?

2d. What will be the operation, on the vessels of the United States, of His Majesty's decrees of July last, forbidding the departure of neutral ships from ports of France, unless provided with imperial licenses? Are these licenses merely substitutes for clearances; or do they prescribe regulations to be observed by the holders of them within the jurisdiction of the United States?

Do they confine the permitted intercourse to two parts only of the said States; and do they enjoin that all shipments be made on French account exclusively?

Is it His Majesty's will, that the seizures made in the ports of Spain, and other places, on the principle of reprisal, shall become a subject of present or future negotiation between the two Governments; or, are the acts already taken by His Majesty to be regarded as conclusive against remuneration?

I need not suggest to your Excellency the interest that both Governments have in the answers that may be given to these questions, and how nearly connected they are with the good understanding which ought to exist between them. After the great step lately taken by His Majesty, towards an accommodation of differences, we are not at liberty to suppose that any new consideration will arise, which shall either retard or prevent the adoption of measures necessary to a full restoration of the commercial intercourse and friendly relations of the two Powers.

I cannot omit expressing, on this occasion, the sense I shall carry with me of the many obligations I am personally under to your Excellency, and of the very high consideration with which I have the honor to be, your most obedient and very humble servant,

JOHN ARMSTRONG.

His Exc'y the DUKE OF CADORE, &c.

[Referred to in Mr. Armstrong's despatch of Sept. 10.]

The Duke of Cadore to Mr. Armstrong.

PARIS, Sept. 12, 1810.

SIR: I have received your letter of the 7th September. That which I wrote to you the same day answered the first of the questions you put to me. I will add to what I have had the honor to write to you, that the decree of the 23d March,

1810, which ordered reprisals, in consequence of the act of Congress of the 1st March, 1809, was repealed, as soon as we were informed of the repeal of the act of non-intercourse passed against France.

On your second question, I hasten to declare to you, that American vessels, loaded with merchandise, the growth of the American provinces, will be received without difficulty in the ports of France, provided they have not suffered their flag to lose its national character, by submitting to the acts of the British Council: they may, in like manner, depart from the ports of France. The Emperor has given licenses to American vessels. It is the only flag which has obtained them. In this His Majesty has intended to give a proof of the respect he loves to show to the Americans. If he is somewhat dissatisfied (*peu satisfaite*) that they have not as yet been able to succeed in causing their flag to be respected, at least he sees with pleasure that they are far from acknowledging the tyrannical principle of English legislation.

The American vessels which may be loaded on account of Frenchmen, or on account of Americans, will be admitted into the ports of France. As to the merchandise confiscated, it having been confiscated as a measure of reprisal, the principles of reprisal must be the law in that affair.

I have the honor to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY, *Duc de Cadore.*

His Exc'y Gen. ARMSTRONG, &c.

General Armstrong to Mr. Pinkney.

BORDEAUX, September 29, 1810.

SIR: Your letter of the 3d instant found me at this place, and on the point of embarking for the United States. I hasten, therefore, to give to it an immediate answer.

There was no error in my representation to you, nor in your representation to Lord Wellesley, of the words, or of the meaning, as I understand it, of the Duke of Cadore's note to me; nor, indeed, do either of these appear to be readily susceptible of mistake. The former, no doubt, retract, in the most positive terms, the Berlin and Milan decrees, and, of course, the principles on which these decrees were founded; and, in doing so, assuredly give us a fair claim on His Britannic Majesty for a fulfilment of the promise made by his Minister Plenipotentiary to our Government the 23d of February, 1808. It would, however appear, by Lord Wellesley's letter to you of the 31st ultimo, that the British Cabinet has given a new version to this promise of His Majesty, and that, as a preliminary to its execution, it is now required, not merely that the principles which had rendered necessary the British system should be retracted, but that the repeal of the French decrees should have actually begun to operate, and the commerce of neutral nations (generally) should have been restored to the condition in which it stood previously to the promulgation of these decrees. It would also appear, from different passages in your letter, that this deviation

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from the original promise of His Majesty grew out of a supposition that the recall of the French decrees implied a contemporaneous cessation of the British Orders in Council of November, 1807, and a repeal before the 1st day of November next of all proclamation blockades of France, &c. &c. Than this construction nothing can, in my opinion, be more erroneous. Were the repeal of the French decrees dependent alone on what Great Britain may do, the supposition would have in it some color of reasonableness; but as the conditions of it present an alternative, one side of which depends, not on the will of His Britannic Majesty at all, but altogether on that of the United States, and which cannot be adopted by them until after the 1st of November next, it necessarily follows that the conditions are not precedent, as has been supposed, but subsequent, as I represent them. This reasoning will receive illustration from a plain and unsophisticated statement of the Duke of Cadore's declaration, viz: that the Berlin and Milan decrees will cease to operate after the 1st day of November next, on one of two conditions; either that Great Britain shall revoke her Orders in Council, so far as they violate the maritime rights of the United States, or that, refusing to do so, the United States shall revive towards her certain sections of their late non-intercourse law, conformably to an act of Congress of the 1st May last. In this we find nothing of a contemporaneous cessation of the French decrees and British Orders in Council, nor that the blockades of France must be recalled before the 1st day of November next; indeed, the very reverse is to be found there; for it contains an express engagement the decrees shall cease, if the United States do a certain act, which all the world knows they cannot do till after that day. These remarks may derive some additional force from the contents of my letter by Mr. Masson, which will, I hope, show that the concessions made by France to the United States are at least sufficiently substantial to invite from Great Britain some measures of a character equally conciliatory, and that, "earnestly desiring to see the commerce of the world restored to that freedom which is necessary to its prosperity," and no more hesitating to follow the good than she has done to follow the bad example of her neighbor and rival, she will go on to declare that her Orders in Council, &c. shall cease after the 1st day of November next, on condition, either that France shall have actually withdrawn her offensive decrees on that day, or that, if she refuse to do so, the United States shall proceed to enforce against her their late non-intercourse law.

In view of the subject, nothing short of this can be considered a sufficient pledge on the part of the British Government, which, unlike that of France, presents no alternative in the conditions on which her Orders in Council shall be repealed, and which, of course, in no way makes that repeal to depend on an act which would be altogether that of the United States. I have, &c.

JOHN ARMSTRONG.

His Exc'y WILLIAM PINKNEY, &c.

Extract of a letter from Mr. Pinkney to Mr. Russell.

OCTOBER 7, 1810.

It may not be amiss to mention that, as it will be obviously prudent, even if it be not absolutely necessary, to furnish me with all such further evidence as can conveniently be gained, confirmatory of our expectation that the French repeal of the Berlin and Milan decrees will take effect on the 1st of November, I beg you to transmit me such evidence if —, and as soon as it shall be gained.

It may be yet more important to send me, with as little delay as possible, after the 1st of November, the most decisive proof in your power that the repeal has taken effect, at least an official letter from you to me stating that fact.

Extract—Mr. Smith, Secretary of State, to General Armstrong.

DEPARTMENT OF STATE,

November 2, 1810.

You will herewith receive a printed copy of the proclamation, which, conformably to the act of Congress, has been issued by the President on the revocation of the Berlin and Milan decrees; you will, however, let the French Government understand that this has been done on the ground that the repeal of these decrees does involve an extinguishment of all the edicts of France actually violating our neutral rights, and that the reservations under the expression "it being understood," are not conditions precedent, affecting the operation of the repeal; and on the ground also that the United States are not pledged against the blockades of Great Britain, beyond what is stated in my letter to you of the 5th July. It is to be remarked, moreover, that in issuing the proclamation it has been presumed that the requisition contained in that letter, on the subject of the sequestered property will have been satisfied. This presumption is not only favored by the natural connexion of the policy and justice of a reversal of that sequestration with the repeal of the decrees, but is strengthened by concurrent accounts, through different channels, that such property as has been sequestered has been actually restored.

The enclosed copy of my last letter to Mr. Pinkney of the 12th ultimo, will afford you a distinct view of the line of conduct presented to him in relation to the British orders and blockades.

This despatch will be delivered to you by one of the officers of the United States' frigate Essex, who will have orders to return to his ship as soon as he shall have received such despatches as you may deem it necessary to transmit to this Department.

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE,

November 5, 1810.

SIR: As the ground on which the French Government has deemed it expedient to place the



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revocation of its decrees may suggest to it the further pretext of requiring a restoration of the French property seized here under the non-intercourse law, as a condition to their restoring the American property condemned or sequestered under the French decree of March, you are authorized, in case a restoration can be thus, and not otherwise, obtained, to acquiesce in such an arrangement, and, if necessary, to give to such arrangement a conventional form requiring the sanction of the Senate. You will, however, take care to avoid any expressions implying an acknowledgement, on the part of the United States, that the non-intercourse law, which was not retrospective, has any analogy to the French decree, the injustice of which essentially consists in its retrospective operation. In truth, the arrangement, on the part of the United States, will be little more than nominal, as will appear by the enclosed copy of a letter from the Treasury Department. It may be proper to remark that the third section of the act of May, for the recovery of forfeitures under the non-intercourse law, contemplated violations by our own citizens, rather than French violations, which could not have been of sufficient importance to have called for such a provision, pointing particularly at them.

I have the honor to be, &c.

R. SMITH.

Gen. JOHN ARMSTRONG, &c.

Mr. Russell to the Secretary of State.

PARIS, *December 4, 1810.*

SIR: This serves merely to cover a copy of my letter to Mr. Pinkney of the 1st of this month; since that time nothing has come to my knowledge to affect the statement which it contains. It is my duty, however, to say that I have not learned the occurrence of any case to which the Berlin and Milan decrees could be applied.

I have the honor to be, &c.

JON. RUSSELL.

Hon. R. SMITH, *Secretary of State.*

[Referred to in Mr. Russell's letter of Dec. 4, 1810.]

Mr. Russell to Mr. Pinkney.

PARIS, *December 1, 1810.*

SIR: As nothing has transpired here of sufficient importance to be communicated by a special messenger, and as no safe private conveyance has hitherto presented itself, I have delayed, till now, to acknowledge the receipt of your letters under date of the 7th and 28th of October.

No event within my knowledge has occurred, either before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the Duke of Cadore on the 5th August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month on any vessel arriving during that time in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have

ceased to operate. I know, indeed, of no better evidence than this, which the negative character of the case admits, or how the non-existence of an edict can be proved, except by the promulgation of its repeal and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measures which exclusively depend on them.

I need not suggest to you the importance of transmitting hither, as early as possible, any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, with great respect, &c.

JON. RUSSELL.

His Exc'y Wm. PINKNEY, Esq.

Jonathan Russell, Esq., *Chargé d'Affaires of the United States at Paris, to Mr. Smith.*

PARIS, *December 11, 1810.*

SIR: On the evening of the 9th instant, I learned that the Essex frigate had arrived at L'Orient on the 4th, and had been put under quarantine for five days for the want of a bill of health, during which time the messenger is not allowed to come on shore. At the same time that I received this intelligence, I was also informed that brig New Orleans Packet was seized at Bordeaux, under the Berlin and Milan decrees, by the director of the customs at that place. The simultaneous occurrence of these two events formed, in my opinion, a crisis which required a prompt decision of this Government. Under this impression, I immediately addressed to the Duke of Cadore the note of which the enclosed is a copy, and in which I thought it politic to remonstrate with firmness against the proceedings of the direction of the customs at Bordeaux, and to leave the Government here at liberty to disavow them. This disavowal, however, I am persuaded, depends entirely on the nature of the despatches brought by the Essex. I feel, therefore, the most lively anxiety to receive them. In the mean time, I give this letter a chance of reaching you by a vessel about leaving Bordeaux for New York.

Since my last, the Hanseatic towns have been annexed to this Empire.

I have informed Mr. Pinkney of the arrival of the Essex, and suggested to him the possibility that the proclamation of the President had come out by her, in order that he might, if he thought proper, make a final attempt to obtain a repeal of the Orders in Council while it was yet in the power of the British Ministry to do it with a good grace. I have the honor to be, &c.

JONA. RUSSELL.

*Relations with France.*

[Referred to in Mr. Russell's despatch of December 11, 1810.]

Mr. Russell to the Duke of Cadore.

PARIS, December 10, 1810.

SIR: I have this moment learned that the American brig, the New Orleans Packet, lately arrived at Bordeaux, has, with her cargo, the *bona fide* property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs under the Berlin and Milan decrees. I have also been informed that this director of the customs, not satisfied with this hardy violation of the solemn assurances given by your Excellency to General Armstrong on the 5th of August last, and confirmed by your letter to him of the 7th of September, that these decrees were revoked, and would cease to operate from the 1st of November, has, without regard to the plighted faith of his Government, announced his intention of selling the provisions which constitute a part of the cargo, under the pretext that they are perishable. The clear and unequivocal manner in which the revocation of the Berlin and Milan decrees was announced by your Excellency, forbids me for a moment to suppose that the violent proceedings of this man will be sanctioned by His Majesty the Emperor and King, or that the least delay will be allowed, in placing the property thus arrested at the free disposition of the rightful owner, whose confidence alone in the good faith with which it becomes nations to perform their engagements has brought him to the place where he is so inhospitably treated.

I am persuaded that your Excellency will not, on this occasion, attempt to remind me of the conditions on which the revocation of those decrees was predicated. These conditions were in the alternative, and the performance of either is sufficient to render absolute and perpetual that revocation. It is of no importance that the British Orders in Council have not been withdrawn, if the United States, in due time, perform the condition which depends alone on them; and what is this condition? Why, to execute an act of Congress against the English, which, to be thus executed, requires the previous revocation of these very decrees. The letter of your Excellency, of the 5th of August, appears to have been written with a full knowledge of this requisition of the law, and manifestly with the intention to comply with it, in order that it might be competent for the President of the United States to exercise the contingent power which had been given to him.

It will not be pretended that the decrees have, in fact, been revoked, but that the delay of the United States in performing the condition presented to them authorizes their revival. The case of the New Orleans Packet is the first which has occurred since the 1st of November, to which the Berlin or Milan decrees could be applied; and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked; as to delay

on the part of the United States, there has been none. No official information of the letter of your Excellency of the 5th of August left France for the United States, owing to circumstances which it was not in the power of General Armstrong to control, until the 29th of September; and to this moment I have not learned that such official information has been there received. I might, indeed, have learned it, and been able now to have communicated to your Excellency the measures on which the President has decided in consequence of it, had not the frigate, the Essex, despatched by him, been put under quarantine, on her arrival at L'Orient, for the want of a bill of health, and the messenger thereby detained since the 4th of this month. I will not undertake to decide whether a bill of health ought, in courtesy, to be exacted of a frigate of a friendly Power coming in the *winter season* from a place not known to have been lately afflicted with any malignant disease; but surely the delay which this exaction occasions cannot be imputed to a want of due diligence on the part of the American Government.

It is from this view of the subject that I am thoroughly convinced that the application of the Berlin or Milan decree, by the director of the customs at Bordeaux, to the New Orleans Packet, will not be approved by His Majesty, but that prompt and efficient measures will be taken to correct a procedure which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid.

I pray your Excellency to be assured of my most distinguished consideration.

JON. RUSSELL.

To the DUKE OF CADORE.

[Referred to in Mr. Russell's letter of Dec. 11, 1810.]

Christopher Meyer to Mr. Smith, Secretary of State.

UNITED STATES' CONSULATE,  
Bordeaux, Dec. 6, 1810.

SIR: I have the honor to enclose a copy of Mr. Cathalan's letter to me, received this morning, concerning the recapture of the schooner Grace Anne Greene, of New York, Daniel Greene, master, who brought her into the port of Marseilles, having two British officers and seven sailors on board, and they only being six men and two boys.

The brig New Orleans Packet, of New York with a cargo of provisions and three hundred bags of cocoa on board, bound to the Mediterranean, for a market, went to Gibraltar, and, after lying there some time, came to this port where she has been sequestered.

The schooner Friendship, of and from Baltimore, Captain Snow, with a cargo of coffee and Campeachy, arrived five days ago in this river. Whatever the issue may be of these two vessels, I shall have the honor to inform you of it.

I remain, very respectfully, sir, &c.

CHRISTOPHER MEYER.

To the SECRETARY OF STATE, U. S.

*Relations with France.*

[Referred to in Mr. Russell's letter of Dec. 11, 1810.]

Christopher Meyer to Mr. Smith, Secretary of State.

UNITED STATES' CONSULATE,  
*Bordeaux, December 14, 1810.*

SIR: Annexed is a triplicate of my respects to you of the 6th instant; the brig *Osmin* and the ship *Commodore Rodgers*, by which the original and duplicate went, having not got to sea yet.

The brig *New Orleans Packet*, of New York, Captain *Harris*, mentioned in my former letter, has since been seized by the collector, and her cargo has been put in the imperial custom-house.

The schooner *Friendship*, of and from Baltimore, Captain *Snow*, has been sequestered.

This is accompanied with an account of sundry advances made for the relief of distressed seamen, for this port and the port of Bayonne, with twenty-two vouchers, amounting to 4,934 francs 20 centimes, and for which I have drawn on Jonathan Russell, Esq., our *Chargé d'Affaires* at Paris.

Captain *Skiddy*, of the schooner *Maria Louisa*, bound to New York, has eight distressed seamen on board, and for whom I have paid no passage money, nor have I laid in provision for them.

The ship *Commodore Rodgers*, Captain *Shaler*, from Bayonne, bound to New York, will carry home from fifty to sixty seamen in distress, and for whom I shall have the honor to transmit you a list and an account by my next.

The duty on cocoa has been reduced from 5 francs 50 centimes to 2 francs 75 centimes per pound.

The *Essex* frigate is arrived at L'Orient from the United States.

This is accompanied by a file of newspapers, and which I shall have the honor to continue to send whenever opportunities offer.

I have the honor to be, &c.

CHRISTOPHER MEYER.

ROBERT SMITH, Esq., *Sec'y of State.*

CIRCULAR.

TREASURY DEPARTMENT,

*November 2, 1810.*

SIR: You will herewith receive a copy of the proclamation of the President of the United States, announcing the revocation of the edicts of France, which violated the neutral commerce of the United States, and that the restrictions, imposed by the act of 1st May last, accordingly cease from this day in relation to France. French armed vessels may, therefore, be admitted into the harbors and waters of the United States, anything in that law to the contrary notwithstanding.

It also follows that, if Great Britain shall not, on the 2d of February next, have revoked or modified in like manner her edicts violating the neutral commerce of the United States, the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the "Act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," shall, in

conformity with the act first abovementioned, be revived and have full force and effect, so far as relates to Great Britain and her dependencies, from and after the said 2d day of February next. Unless, therefore, you shall before that day be officially notified by this department of such revocation or modification, you will, from and after the said day, carry into effect the abovementioned sections, which prohibit both the entrance of British vessels of every description into the harbors and waters of the United States, and the importation into the United States of any articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of Great Britain, and of any articles whatever brought from the said dominions, colonies, and dependencies.

I am, respectfully, sir, your obedient servant.

The COLLECTOR of the District of —.

*By the President of the United States of America.*

A PROCLAMATION.

Whereas, by the fourth section of the act of Congress, passed on the 1st day of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," it is provided "that, in case either Great Britain or France shall, before the 3d day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation; and if the other nation shall not, within three months thereafter, so revoke or modify her edicts, in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid."

And whereas it has been officially made known to this Government, that the edicts of France violating the neutral commerce of the United States have been so revoked as to cease to have effect on the 1st of the present month: Now, therefore, I, James Madison, President of the United States, do hereby proclaim that the said edicts of France have been so revoked as that they ceased on the said 1st day of the present month to violate the neutral commerce of the United States; and that, from the date of these presents, all the restrictions imposed by the aforesaid act shall cease and be

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discontinued in relation to France and their dependencies.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand, at the City of Washington, this second day of November, in the year of our Lord one thousand eight hundred and ten, and of the independence of the United States the thirty-fifth.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

The Vice Consul at Bordeaux to the Secretary of State.

UNITED STATES' CONSULATE,  
BORDEAUX, December 31, 1810.

SIR: I had the honor of addressing you the 14th instant by this opportunity, (the schooner Maria Louisa, Captain Skiddy,) and I have now to enclose a newspaper of yesterday, containing two letters from the French Minister of Justice to the President of the Tribunal of Prizes, and from the Minister of Finance to the Collector General of all the customs in France, concerning American navigation. I have the honor to be, &c.

CH. MEYER,  
*Vice Consul of the United States.*

[Referred to in the preceding letter of Mr. Meyer.]

PARIS, December 26, 1810.

Copy of a letter from His Excellency the Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes.

PARIS, December 25, 1810.

MR. PRESIDENT: The Minister of Foreign Relations, by order of His Majesty the Emperor and King, addressed on the 5th of August last to the Plenipotentiary of the United States of America a note containing the following words:

"I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being well understood that, in consequence of this declaration, the English will revoke their Orders in Council and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation to announce the revocation of the decrees of Berlin and Milan, and declared that, in consequence thereof, all the restrictions imposed by the act of the 1st of May must cease with respect to France and her dependencies. On the same day the Treasury Department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the ports and waters of the United States armed French vessels; prescribes to them to apply, after the 2d of February next, to English vessels of every de-

scription, and to productions arising from the soil and industry of the commerce of England and her dependencies, the law which prohibits all commercial relations, if at that period the revocation of the English Orders in Council, and of all the acts violating the neutrality of the United States, should not be announced by the Treasury Department.

In consequence of this engagement, entered into by the Government of the United States, to cause their rights to be respected, His Majesty orders that all the causes that may be pending in the Council of Prizes of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the Council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration.

THE DUKE OF MASSA.

Copy of a letter from the Minister of Finance to the Count of Sussy, Counsellor of State, Director General of the Customs.

DECEMBER 25, 1810.

On the 5th of last August, the Minister of Foreign Relations wrote to Mr. Armstrong, Minister Plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the first of November they would cease to have effect; it being well understood that, in consequence of this declaration, the English would revoke their Orders in Council, and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation which announces the revocation of the Berlin and Milan decrees after 1st of November; and which declares that, in consequence thereof, all the restrictions imposed by the act of the 1st of May, 1809, should cease with respect to France and her dependencies.

The same day the Treasury Department addressed to the collectors of the customs a circular, which directs them to admit into the ports and waters of the United States armed French vessels, and enjoins it on them to apply, after the 2d of February next, the law of the 1st of May, 1809, prohibiting all commercial relation to English vessels of every description, as well as to productions of the soil, industry, or commerce of England and her dependencies.

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His Majesty having seen, in these two pieces, the enunciation of the measures which the Americans purpose taking on the 2d of February next, to cause their rights to be respected, has ordered me to inform you that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the 1st of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the 2d of February I shall acquaint you with the intentions of the Emperor with regard to the definitive measures to be taken for distinguishing and favoring the American navigation. I have the honor to salute you.

The Minister of Finance,

THE DUKE OF GAETE.

SPAIN—FLORIDA.

Communicated to Congress by the public Message of December 5, 1810, and the confidential Message of January 3, 1811.

WASHINGTON, January 3, 1811.

To the Senate and House of  
Representatives of the United States:

I communicate to Congress, in confidence, a letter of the 2d December from Governor Folch, of West Florida, to the Secretary of State; and another of the same date, from the same, to John McKee.

I communicate in like manner a letter from the British Chargé d'Affaires to the Secretary of State, with the answer of the latter. Although the letter cannot have been written in consequence of any instruction from the British Government, founded on a late order for taking possession of the portion of West Florida well known to be claimed by the United States; although no communication has ever been made by that Government to this of any stipulation with Spain, contemplating an interposition which might so materially affect the United States; and although no call can have been made by Spain in the present instance for the fulfilment of any such subsisting engagement, yet the spirit and scope of the document, with the accredited source from which it proceeds, required that it should not be withheld from the consideration of Congress.

Taking into view the tenor of these several communications, the posture of things with which they are connected, the intimate relation of the country adjoining the United States eastward of the river Perdido to their security and tranquillity, and the peculiar interest they otherwise have in its destiny, I recommend to the consideration of Congress, the seasonableness of a declaration that the United States could not see, without serious inquietude, any part of a neighboring territory, in which they have in different respects so deep and so just a concern, pass from the hands of Spain into those of any other foreign Power.

I recommend to their consideration also the expediency of authorizing the Executive to take temporary possession of any part or parts of the said territory, in pursuance of arrangements which may be desired by the Spanish authorities, and for making provision for the government of the same during such possession.

The wisdom of Congress will, at the same time, determine how far it may be expedient to provide for the event of a subversion of the Spanish authorities within the territory in question, and an apprehended occupancy thereof by any other foreign Power.

JAMES MADISON.

Extract of a letter from Governor Holmes, of the Mississippi Territory, to the Secretary of State, dated

OCTOBER 17, 1810.

The enclosed letter I have been requested to transmit to you.

[Enclosed in Gov. Holmes's letter of October 17, 1810.]

The President of the Convention of Florida to the  
Secretary of State.

BATON ROUGE, October 10, 1810.

SIR: The Convention of the State of Florida have already transmitted an official copy of their act of independence, through His Excellency Governor Holmes, to the President of the United States, accompanied with the expression of their hope and desire that this Commonwealth may be immediately acknowledged and protected by the Government of the United States, as an integral part of the American Union. On a subject so interesting to the community represented by us, it is necessary that we should have the most direct and unequivocal assurances of the views and wishes of the American Government without delay, since our weak and unprotected situation will oblige us to look to some foreign Government for support, should it be refused to us by the country which we have considered as our parent State.

We therefore make this direct appeal through you to the President and General Government of the American States, to solicit that immediate protection to which we consider ourselves entitled; and, to obtain a speedy and favorable decision, we offer the following considerations: 1st, The Government of the United States in their instructions to the Envoys Extraordinary at Paris in March, 1806, authorized the purchase of East Florida, directing them at the same time to engage France to intercede with the Cabinet of Spain to relinquish any claim to the territory which now forms this Commonwealth. 2d, In all diplomatic correspondence with American Ministers abroad, the Government of the United States have spoken of West Florida as a part of the Louisiana cession. They have legislated for the country as a part of their own territory, and have deferred to take possession of it, in expectation that Spain might be induced to relinquish her claim by amicable negotiation. 3d, The American Government has already refused to ac-

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credit any Minister from the Spanish Junta, which body was certainly more legally organized as the representative of the sovereignty, than that now called the Regency of Spain. Therefore, the United States cannot but regard any force or authority emanating from them, with an intention to subjugate us, as they would an invasion of their territory by a foreign enemy. 4th, The Emperor of France has invited Spanish Americans to declare their independence rather than remain in subjection to the old Spanish Government: therefore, an acknowledgment of our independence by the United States, could not be complained of by France, or involve the American Government in any contest with that Power. 5th, Neither can it afford any just cause of complaint to Great Britain, although she be the ally of Spain, that the United States should acknowledge and support our independence, as this measure was necessary to save the country from falling into the hands of the French exiles from the island of Cuba, and other partisans of Bonaparte, who are the eternal enemies of Great Britain.

Should the United States be induced by these, or any other considerations, to acknowledge our claim to their protection as an integral part of their territory, or otherwise, we feel it our duty to claim, for our constituents, an immediate admission into the Union as an independent State, or as a Territory of the United States, with permission to establish our own form of Government, or to be united with one of the neighboring Territories, or a part of one of them, in such manner as to form a State. Should it be thought proper to annex us to one of the neighboring Territories, or a part of one of them, the inhabitants of this Commonwealth would prefer being annexed to the island of Orleans; and in the meanwhile, until a State Government should be established, that they should be governed by the ordinances already enacted by this Convention, and by their further regulations hereafter.

The claim which we have to the soil or unlocated lands within this Commonwealth will not, it is presumed, be contested by the United States, as they have tacitly acquiesced in the claim of France or Spain for seven years, and the restrictions of the several embargo and non-intercourse laws might fairly be construed, if not as a relinquishment of their claim, yet at least sufficient to entitle the people of this Commonwealth (who have wrested the Government and country from Spain at the risk of their lives and fortunes) to all the unlocated lands. It will strike the American Government that the moneys arising from the sales of these lands, applied as they will be to improving the internal communications of the country, opening canals, &c. will, in fact, be adding to the prosperity and strength of the Federal Union. To fulfil with good faith our promises and engagements to the inhabitants of this country, it will be our duty to stipulate for an unqualified pardon for all deserters now residing within this Commonwealth, together with an exemption from further service in the army or navy of the United States.

A loan of \$100,000 is solicited of the American Government, to be reimbursed at three, six, and nine years, from the sales of public lands. This loan may be made by the Secretary of the Treasury immediately, without committing the Government, or making it known to foreign Ministers at Washington.

In order not to embarrass the Cabinet of the United States, and to receive first through their own confidential agents their wishes and views with respect to us, it is deemed prudent to defer the departure of our Envoy already named, who will be despatched immediately on receiving information that such a measure will meet the approbation of the United States.

We pray you to accept the assurances of our respect and high consideration.

By order of the Convention:

JOHN RHEA, *President.*

To the Honorable ROBERT SMITH, *Secretary of State for the United States.*

[Transmitted with the letter of Governor Holmes to the Secretary of State, of October 17, 1810.]

The Convention of Florida to His Excellency the Governor of the Mississippi Territory.

BATON ROUGE, *September 26, 1810.*

SIR: We, the delegates of the people of this State, have the honor to enclose to you an official copy of their act of independence, requesting that it may be forthwith transmitted by you to the President of the United States, with the expression of their most confident and ardent hope that it may accord with the policy of the Government, as it does with the safety and happiness of the people of the United States, to take the present Government and people of this State under their immediate and special protection, as an integral and inalienable portion of the United States.

The Convention and their constituents of Florida rest in the firm persuasion that the blood which flows in their veins will remind the Government and the people of the United States, that they are their children; that they have been acknowledged as such by the most solemn acts of the Congress of the United States; and that, so long as independence and the rights of man shall be maintained and cherished by the American Union, the good people of this State cannot, or will not, be abandoned or exposed to the invasion, violence, or force of any foreign or domestic foe.

The Convention beg you to receive for yourself, sir, and to assure the President of their high respect and consideration.

By order of the Convention:

JOHN RHEA, *President.*

[Transmitted with the letter of Governor Holmes to the Secretary of State, of October 17, 1810.]

*By the Representatives of the people of West Florida, in Convention assembled:*

A DECLARATION.

It is known to the world with how much fidelity the good people of this Territory have profess-

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ed and maintained allegiance to their legitimate Sovereign, while any hope remained of receiving from him protection for their property and lives.

Without making any unnecessary innovation in the established principles of the Government, we had voluntarily adopted certain regulations, in concert with our First Magistrate, for the express purpose of preserving this Territory, and showing our attachment to the Government which had heretofore protected us. This compact, which was entered into with good faith on our part, will forever remain an honorable testimony of our upright intentions and inviolable fidelity to our King and parent country, while so much as a shadow of legitimate authority remained to be exercised over us. We sought only a speedy remedy for such evils as seemed to endanger our existence and prosperity, and were encouraged by our Governor with solemn promises of assistance and co-operation. But those measures which were intended for our preservation he has endeavored to pervert into an engine of destruction, by encouraging, in the most perfidious manner, the violation of ordinances sanctioned and established by himself as the law of the land.

Being thus left without any hope of protection from the mother country, betrayed by a Magistrate whose duty it was to have provided for the safety and tranquillity of the people and Government committed to his charge, and exposed to all the evils of a state of anarchy, which we have so long endeavored to avert, it becomes our duty to provide for our own security, as a free and independent State, absolved from all allegiance to a Government which no longer protects us.

We, therefore, the Representatives aforesaid, appealing to the Supreme Ruler of the world for the rectitude of our intentions, do solemnly publish and declare the several districts composing this Territory of West Florida to be a *free and independent State*; and that they have a right to institute, for themselves, such form of Government as they may think conducive to their safety and happiness; to form treaties; to establish commerce; to provide for their common defence; and to do all acts which may, of right, be done by a sovereign and independent nation; at the same time declaring all acts, within the said Territory of West Florida, after this date, by any tribunal or authorities not deriving their powers from the people, agreeably to the provisions established by this Convention, to be null and void; and calling upon all foreign nations to respect this our declaration, acknowledging our independence, and giving us such aid as may be consistent with the laws and usages of nations.

This Declaration, made in Convention, at the town of Baton Rouge, on the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and ten, we, the Representatives, in the name aforesaid, and on behalf of our constituents, do hereby solemnly pledge ourselves to support with our lives and fortunes.

By order of the Convention :

JOHN RHEA, *Pres't.*

ANDREW STEELE, *Sec'ry.*

The Secretary of State to Governor Claiborne.

DEPARTMENT OF STATE,

October 27, 1810.

SIR: From the enclosed proclamation of the President of the United States, you will perceive his determination to take possession of the Territory therein specified, in the name and in behalf of the United States, the considerations which have constrained him to resort to this necessary measure, and his direction that you, as Governor of the Orleans Territory, shall execute the same. Of this proclamation, upon your arrival at Natchez, you will, without delay, cause to be printed as many copies, in the English, French, and Spanish languages, as may be deemed necessary, and you will cause the same to be extensively circulated throughout the said Territory.

You will immediately proceed, by the nearest and best route, to the town of Washington, in the Mississippi Territory. From the Secretary at War you will receive an order to the officers commanding the several frontier posts to afford you such assistance in passing the wilderness, and in descending the Western waters, as you may require; and, as despatch is very desirable, you are authorized, in case your horses should fail, to procure others at the public expense. After having made, at Washington, the necessary arrangements with Governor Holmes and with the commanding officer of the regular troops, you will, without delay, proceed into the said Territory, and, in virtue of the President's proclamation, take possession of the same, in the name and in behalf of the United States.

As the district, the possession of which you are directed to take, is to be considered as making part of the Territory of Orleans, you will, after taking possession, lose no time in proceeding to organize the militia; to prescribe the bounds of parishes; to establish parish courts; and, finally, to do whatever your legal powers applicable to the case will warrant, and may be calculated to maintain order; to secure to the inhabitants the peaceable enjoyment of their liberty, property, and religion; and to place them, as far as may be, on the same footing with the inhabitants of the other districts under your authority. As far as your powers may be inadequate to these and other other requisite objects, the Legislature of Orleans which it is understood will soon be in session, will have an opportunity of making further provisions for them, more especially for giving, by law, to the inhabitants of the said Territory, a just share in the representation in the General Assembly; it being desirable that the interval of this privation should not be prolonged beyond the unavoidable necessity of the case.

If, contrary to expectation, the occupation of this Territory on the part of the United States should be opposed by force, the commanding officer of the regular troops on the Mississippi will have orders from the Secretary at War to afford you, upon your application, the requisite aid; and should an additional force be deemed necessary, you will draw from the Orleans Territory, as will Governor Holmes from the Mississippi Territory

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militia in such numbers and in such proportions from your respective territories, as you and Governor Holmes may deem proper. Should, however, any particular place, however small, remain in possession of a Spanish force, you will not proceed to employ force against it, but you will make immediate report thereof to this Department.

You will avail yourself of the first favorable opportunities that may occur to transmit to the several Governors of the Spanish provinces in the neighborhood copies of the President's proclamation, with accompanying letters of a conciliatory tendency.

To defray any reasonable expenditures which may necessarily attend the execution of these instructions, the President authorizes you, having due regard to economy, to draw for a sum not exceeding, in any event, twenty thousand dollars.

From the confidence which the President justly has in your judgment and discretion, he is persuaded that, in the execution of this trust, as delicate as it is important, your deportment will be temperate and conciliatory. Such a line of conduct towards the inhabitants is prescribed as well by policy as by justice.

You will, it is expected, be fully sensible of the necessity not only of communicating every important event, that may occur in the progress of this business, but of transmitting a letter, whatever may be its contents, by every mail to this city. I have the honor to be, &c.

R. SMITH.

W. C. C. CLAIBORNE, Esq. &c.

[Referred to in the preceding letter.]

*By the President of the United States of America.*

A PROCLAMATION.

Whereas the territory south of the Mississippi Territory and eastward of the river Mississippi, and extending to the river Perdido, of which possession was not delivered to the United States in pursuance of the treaty concluded at Paris on the 30th of April, 1803, has, at all times, as is well known, been considered and claimed by them, as being within the colony of Louisiana conveyed by the said treaty, in the same extent that it had in the hands of Spain, and that it had when France originally possessed it;

And whereas the acquiescence of the United States in the temporary continuance of the said Territory under the Spanish authority was not the result of any distrust of their title, as has been particularly evinced by the general tenor of their laws, and by the distinction made in the application of those laws between that Territory and foreign countries, but was occasioned by their conciliatory views, and by a confidence in the justice of their cause, and in the success of candid discussion and amicable negotiation with a just and friendly Power;

And whereas a satisfactory adjustment, too long delayed, without the fault of the United States, has for some time been entirely suspended by events over which they had no control; and whereas a crisis has at length arrived subversive of the order of things under the Spanish authori-

ties, whereby a failure of the United States to take the said Territory into its possession may lead to events ultimately contravening the views of both parties, whilst, in the mean time, the tranquillity and security of our adjoining Territories are endangered, and new facilities given to violators of our revenue and commercial laws, and of those prohibiting the introduction of slaves:

Considering, moreover, that under these peculiar and imperative circumstances, a forbearance on the part of the United States to occupy the Territory in question, and thereby guard against the confusions and contingencies which threaten it, might be construed into a dereliction of their title, or an insensibility to the importance of the stake: Considering that in the hands of the United States it will not cease to be a subject of fair and friendly negotiation and adjustment: Considering, finally, that the acts of Congress, though contemplating a present possession by a foreign authority, have contemplated also an eventual possession of the said Territory by the United States, and are accordingly so framed as, in that case, to extend in their operation to the same:

Now be it known, that I, JAMES MADISON, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite that possession should be taken of the said Territory, in the name and behalf of the United States. William C. C. Claiborne, Governor of the Orleans Territory, of which the said Territory is to be taken as part, will accordingly proceed to execute the same, and to exercise over the said Territory the authorities and functions legally appertaining to his office. And the good people inhabiting the same are invited and enjoined to pay due respect, to him in that character, to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under full assurance that they will be protected in the enjoyment of their liberty, property, and religion.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand.

Done at the City of Washington, the twenty-seventh day of October, A. D. 1810, and in the thirty-fifth year of the independence of the said United States. JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

Mr. Smith to Governor Holmes.

DEPARTMENT OF STATE, Nov. 15, 1810.

SIR: I have received your letter of the 17th of October, enclosing the memorial of the Convention of West Florida. To repress the unreasonable expectations therein indicated in relation to the vacant land in that Territory, it is deemed proper to lose no time in communicating to you and to Governor Claiborne the sentiments of the President on the subject.

The right of the United States to the Territory of West Florida, as far as the river Perdido, was



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fairly acquired by purchase, and has been formally ratified by treaty. The delivery of possession has, indeed, been deferred, and the procrastination has been heretofore acquiesced in by this Government, from a hope, patiently indulged, that amicable negotiation would accomplish the equitable purpose of the United States. But this delay, which proceeded only from the forbearance of the United States to enforce a legitimate and well known claim, could not impair the legality of their title; nor could any change in the internal state of things, without their sanction, howsoever brought about, vary their right. It remains, of course, as perfect as it was before the interposition of the Convention. And the people of West Florida must not for a moment be misled by the expectation that the United States will surrender, for their exclusive benefit, what had been purchased with the treasure and for the benefit of the whole. The vacant land of this Territory, thrown into common stock with all the other vacant land of the Union, will be a property in common, for the national uses of all the people of the United States. The community of interests upon which this Government invariably acts, the liberal policy which it has uniformly displayed towards the people of the Territories, (a part of which policy, has ever been a just regard to honest settlers,) will, nevertheless, be a sufficient pledge to the inhabitants of West Florida for the early and continued attention of the Federal Legislature to their situation and their wants.

These observations will apprise you, sir, of the sentiments of the President, as to the propositions in the memorial in relation to the vacant land in West Florida, and will enable you to make, when necessary and proper, suitable explanations to the people of that Territory. You will, however, keep in mind that the President cannot recognise in the Convention of West Florida any independent authority whatever to propose or to form a compact with the United States.

I am sir, with the highest respect, your most obedient servant,

R. SMITH.

His Ex'cy DAVID HOLMES.

Governor Folch to Mr. Smith, Secretary of State.

MOBILE, *December 2, 1810.*

SIR: I will not detain myself in giving to your Excellency information relative to the letter which I directed to his Excellency Governor Holmes, being persuaded that it will be in the hands of your Excellency long before this; but I will add to its contents, for your government, that I have decided on delivering this province to the United States under an equitable capitulation, provided I do not receive succor from the Havana or Vera Cruz, during the present month; or that his Excellency the Marquis of Someruelos, (on whom I depend,) should not have opened directly a negotiation on this point.

The incomprehensible abandonment in which I see myself, and the afflicted situation to which this province sees itself reduced, not only authorize me, but force me to have recourse to this de-

termination, the only one to save it from the ruin which threatens it.

The United States are also authorized to accept it; for as the disturbances which now afflict this province, so near to them, must increase every day, they cannot but have an influence on their tranquillity, an object which merits the first care of every Government.

The inhabitants of Baton Rouge may figure to themselves many motives which may, (in their conception,) justify the determination they have adopted; but they cannot produce even a single one which can make tolerable the tyrannical, illegal, and unjust obstinacy with which they insist that the other districts should subject themselves to their will.

The United States, who profess the exercise of equity, cannot exempt themselves from taking part with the party unjustly oppressed. In this belief, I recur to its Executive, through the medium of your Excellency, supplicating him, that he will be pleased to send orders to the commandant of Fort Stoddert, that he should assist me with the troops which he has under his orders, for the purpose of forcing the party under the command of Reuben Kemper to retire within the limits of the districts of Baton Rouge; intimating to him, that if in future he should repeat his incursions in the district of Mobile and Pensacola, the troops of the United States, joined to the Spanish troops, will use force to keep them back.

These districts have the more reason to expect from the rectitude of the United States the assistance which I ask, as the party which Kemper commands has been recruited, armed, and provisioned within the limits of their sovereignty.

At the same time, if my proposition is accepted, orders may be given authorizing some person to treat with me for regulating the evacuation of the province, and what ought to precede it.

I conclude by assuring your Excellency of my consideration and respect.

God preserve your Excellency many years.

VINCENTE FOLCH.

His Ex'cy R. SMITH, &c.

Governor Folch to Colonel McKee.

MOBILE, *Dec. 2, 1810.*

SIR: Since the conversations I have had with you respecting the disturbances which at present afflict this province, I have thought of addressing myself directly to the Executive power of the United States, through the medium of their Secretary of State, proposing to treat for the delivery of the province in more positive terms than those which I employed in the letter that I wrote to his Excellency Governor Holmes, because, as our difficulties every day increase, the necessity of hastening their conclusion increases also.

I have believed, also, that it might be conducive to the better exit of this negotiation, that my despatch should be intrusted to a person who could give to the Government every information that it ought to possess, in order that it may deliberate with the brevity which is necessary; and

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considering, sir, that you are in a situation to fulfil this object, from having been an eye-witness to all that has passed in this part of the province and the adjacent country, you can give information respecting the alarm which reigns among the inhabitants, of the influence which the French agents in Louisiana exercise in these disturbances, and the risk which that province runs of being involved in the disorders which have had their birth in Florida, as well as the fatal consequences which may follow if the evil is not stopped in its beginning, and whatever else can be said on the subject.

In order to avoid accidents and delays, which it is not easy to foresee, I will deliver to you duplicates of the despatch which I address to his Excellency the Secretary of State, in order that you may transmit one of them by the mail, and by this means give early information to the Government of the affairs on which it has to deliberate.

The satisfaction I have enjoyed for many years in your acquaintance assures me that you will use every exertion in a matter which is so interesting to our respective countries.

I remain, &c.  
Col. JOHN McKEE.

V. FOLCH.

Colonel McKee to Mr. Eustis.

FORT STODDERT, Dec. 5, 1810.

SIR: Having on the 21st ult. taken the liberty of addressing you on the subject of the disturbances in this quarter, and having no personal acquaintance with any member of the present Executive, I have presumed to enclose to your care a despatch from Governor Folch to the Secretary of State. I have also enclosed a hasty translation of Governor Folch's letter to me, which, with some other considerations, has induced me to proceed immediately to the City of Washington, for which I leave this in two or three days, and will proceed with the least possible delay to Knoxville. I have the honor, &c.

JOHN McKEE.

Hon. WILLIAM EUSTIS.

Mr. Morier to Mr. Smith.

WASHINGTON, Dec. 15, 1810.

SIR: I deem it to be a duty incumbent on me, considering the strict and close alliance which subsists between His Majesty's Government and that of Spain, to express to the Government of the United States, through you, the deep regret with which I have seen that part of the President's Message to Congress, in which the determination of this Government to take possession of West Florida is avowed.

Without presuming to discuss the validity of the title of the United States to West Florida, (a title which is manifestly doubtful, since, according to the President's proclamation, it is left open to discussion, but which has, nevertheless, been brought forward as one of the pleas to justify the occupation of that province,) may it not be asked

why that province could not have been as fairly a subject of negotiation and adjustment in the hands of the Spaniards, who possess the actual sovereignty there, as in the hands of the Americans, who, to obtain possession, must begin by committing an act of hostility toward Spain?

But it may be said that the Spanish forces in Mexico, in Cuba, or at Pensacola, are unequal to quell the rebellious association of a band of desperadoes who are known here by the contemptuous appellation of land-jobbers. Allowing as much, (which you will agree with me, sir, is allowing a great deal,) would it not have been worthy of the generosity of a free nation like this, bearing, as it doubtless does, a respect for the rights of a gallant people at this moment engaged in a noble struggle for its liberty—would it not have been an act on the part of this country, dictated by the sacred ties of good neighborhood, and of friendship, which exist between it and Spain, to have simply offered its assistance to crush the common enemy of both, rather than to have made such interference the pretext for wresting a province from a friendly Power, and that in the time of her adversity?

For allow me, sir, to inquire how can the declaration in the President's proclamation, "that in the hands of the United States, that territory will not cease to be a subject of fair and friendly adjustment," be made to accord with the declaration in his Message to Congress, (implying permanent possession,) "of the adoption of that people into the bosom of the American family?"

The act, consequently, of sending a force to West Florida to secure by arms what was before a subject of friendly negotiation, cannot, I much fear, under any palliation, be considered other than as an act of open hostility against Spain.

While, therefore, it is impossible to disguise the deep and lively interest which His Majesty takes in everything that relates to Spain, which would, I am convinced, induce him to mediate between Spain and the United States on any point of controversy which may exist between them, with the utmost impartiality and good will toward both parties, I think it due to the sincere wish of His Majesty, to maintain unimpaired the friendship which at this moment happily exists between Great Britain and the United States, to say that such are the ties by which His Majesty is bound to Spain, that he cannot see with indifference any attack upon her interests in America. And as I have no doubt that the Government of the United States will attribute this representation to the most conciliatory motives, I am induced to request, in answer to it, such explanation on the subject, as will at once convince His Majesty's Government of the pacific disposition of the United States toward His Majesty's allies the Spaniards, and will remove the contrary impression, which, I fear, the President's Message is likely to make.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. P. MORIER.

Hon. R. SMITH, *Secretary of State.*

*Relations with Tunis.*

Mr. Morier to Mr. Smith.

WASHINGTON, Dec. 22, 1810.

Mr. Morier presents his compliments to Mr. Smith, and begs the favor to be informed when he may expect an answer to the letter which he had the honor to address to Mr. Smith on the 15th instant.

Mr. Morier, at the same time, hopes that Mr. Smith, concurring with him in the opinion that it would be desirable that His Majesty's Government should, as soon as possible after the receipt of the President's Message, be furnished with the explanation which Mr. Morier has requested in the above letter on the occupation of West Florida in the name of the United States, will readily excuse the solicitude with which he again presses this subject upon the attention of this Government.

Mr. Smith to Mr. Morier.

STATE DEPARTMENT, Dec. 28, 1810.

SIR: Taking into view the subject and the circumstances of your letter of the 15th instant, I have, in acknowledging it, only to remark to you, that although it is sufficiently evident, from the face of the documents before the public, that no hostile or unfriendly purpose is entertained toward Spain, the only Power known to the United States in the transaction, yet our functionary at London has been enabled to give to your Government whatever explanations may comport with the frankness and the spirit of conciliation which have been invariably manifested on the part of the United States.

I have the honor to be, &c.

R. SMITH.

J. P. MORIER, Esq., &c.

TUNIS.

[The following documents were communicated to Congress by the President's Message of December 5, 1810.]

Extract of a letter from John Gavino, Esq., Consul of the United States at Gibraltar, to the Secretary of State.

GIBRALTAR, September 18, 1810.

I beg leave to hand you a copy of a letter from Consul Cox, dated Malta, 26th ultimo, when he was on his return to Tunis. It has given me great pleasure to find his having succeeded in terminating amicably the differences which had taken place with that Bey.

[Referred to in the preceding letter.]

C. D. COXE to John Gavino.

MALTA, August 26, 1810.

SIR: I arrived at this place on the 22d instant, in the schooner Hamilton, Captain Whitlock, as a flag of truce, in consequence of an unfavorable change in the situation of our affairs at Tunis, with the expectation of making some arrangement whereby the difficulty which has taken place may be amicably adjusted.

On the 14th instant, His Excellency, the Bey, sent a messenger to request my presence at the palace. I accordingly presented myself, and he informed me that, in consequence of the seizure of a vessel belonging to him and bearing his flag, through the interference of Mr. Pulis, the American Consul at Malta, he had given orders to arrest all the Americans and sequester all their property in the Kingdom of Tunis, which he would hold until he received full satisfaction from the United States, considering them responsible for the acts of their public agents.

The vessel alluded to was the ship *Liberty*, of Philadelphia, belonging to William Hazlett of that place, which had been taken by a French privateer, brought to Tunis, and sold by order of the French Consul at public auction. The first Minister of the Bey was the purchaser, and she afterwards proceeded to Malta under Tunisian colors, where she arrived without interruption in the month of May last. Mr. Pulis, the American Consul, applied to the Maltese court, or *Consulate del Maore*, (as the British Vice Admiralty Court would not interfere,) and claimed the ship for the original American owners. His Excellency, the Bey, on being informed of this, took the measures before related.

He not only regards this as a loss of property, but as an insult offered to his flag, and will view it as a declaration of war if the ship should not be restored to him, with damages of detention. He insists on the right of purchasing prize vessels at auction, or any others offered for sale in his Kingdom, and that his flag shall protect them. His Excellency declared that he had given me the strongest proofs of his justice and friendly disposition to my Government, in causing all the American vessels with their cargoes to be released which had been taken within the limits of this jurisdiction; but that those taken on the high seas was an affair between the American and French Governments, and did not concern him. He has warned me that, if the ship *Rolla* (an American vessel, taken by a French privateer without his jurisdictional limits, and purchased by his agents at public auction at the French consulate,) should be hereafter claimed by an American citizen and given up to him, the Americans, with their property at Tunis, shall be answerable for the event.

The amount of American property at Tunis may be computed at about two hundred and fifty thousand dollars.

All my endeavors to deter his Excellency from these harsh measures were of no avail. He assured me, in the most solemn manner, that he would not only firmly adhere to the steps he had already taken, but would pursue such others as he might deem necessary. I have now, however, to inform you that on my arrival here, and in consequence of my having officially informed Mr. Pulis of what had taken place at Tunis, he has, as the only alternative to prevent a war, withdrawn his claim, and the ship has been restored to the Bey's Ambassador at this place, whereby our relations with that Regency are

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again placed on the same friendly footing on which they were before this unfortunate occurrence took place.

I shall sail on my return to Tunis immediately in the vessel which brought me here; having thus brought the difficulty which had arisen to an amicable conclusion, on terms which, I trust, will be satisfactory to my Government.

Very respectfully, I have the honor to be, sir, your most obedient, humble servant.

C. D. COXE.

JOHN GAVINO, Esq.

FRANCE.

[Communicated to the House, Dec. 29, 1810.]

*To the House of Representatives :*

I lay before the House a report from the Secretary of State, complying with their resolution of the 21st instant.

J. MADISON.

DECEMBER 28, 1810.

DEPARTMENT OF STATE, Dec. 28, 1810.

SIR: In pursuance of a resolution of the House of Representatives of the 21st of this month, I have the honor of laying before you:

1st. A copy (marked A) of a decree of the Emperor of France, transmitted to this Department by General Armstrong:

2d. A copy (marked B) of a correspondence with General Turreau.

3d. A copy (marked C) of a communication just received from General Armstrong, in relation to the duties lately imposed by the Emperor of France.

With the highest respect and consideration, I have the honor to remain, &c.

R. SMITH.

*To the PRESIDENT of the United States.*

A.

Translation of a decree of the 15th July, 1810.

Thirty or forty American vessels may import into France, under license, cotton, fish, oil, dye-wood, salt fish, codfish, hides, and peltry. They may export wine, brandy, silks, linens, cloths, jewelry, household furniture, and other manufactured articles. They can only depart from Charleston and New York, under the obligation of bringing with them a gazette of the day of their departure, (American gazette,) moreover a certificate of the origin of the merchandise, given by the French Consul, containing a sentence in cipher. The French merchants, who shall cause these vessels to come, must prove that they are concerned in the fabrics at Paris, Rouen, and other towns.

B.

General Turreau to Mr. Smith.

WASHINGTON, Nov. 27, 1810.

SIR: Since our last conversation relative to the certificates of origin given by the Consuls of His

Majesty in the United States, I have collected and read over the different orders of my Court on that subject, and asked of the Consul General of France those which he might have received directly on this part of the service, so essential for the security of your exportations.

It results from the instructions which I have received directly, and from those that have been sent to the Consul General, that the Consuls of His Majesty in the United States do not deliver, or must not hereafter deliver, under any pretext, any certificate of origin to American vessels destined for any port other than those of France; that they deliver them, and will deliver them hereafter, to all American vessels destined for the ports of France, loaded only with the produce of the United States; that all the certificates anterior to the last instructions, attributed to the Consuls of His Majesty, and which, it is pretended, were given for colonial produce, that evidently came from England, have been challenged as false, (*argués de faux*;) inasmuch as the English publicly fabricate papers of this sort at London.

This, sir, is all that it is possible for me to say to you at present respecting certificates of origin.

I cannot doubt but that the Government of the United States will see, in these regulations of my Court, an intention, distinctly pronounced, of favoring the commercial relations between France and the United States in all the objects of traffic which shall evidently proceed from their agriculture or manufactures.

You will readily perceive, sir, that, in giving this latitude to the mutually advantageous relations of the two friendly people, the Emperor cannot depart from the system of exclusion against English commerce, without losing the advantages which His Majesty and the allied Powers must necessarily expect from it.

I have the honor to be, with high consideration, &c.

TURREAU.

Hon. R. SMITH. *Sec. of State.*

The Secretary of State to General Turreau.

DEPARTMENT OF STATE, Nov. 28, 1810.

SIR: I have had the honor of receiving your letter of yesterday, stating that the French Consuls in the United States are, at this time, authorized to deliver certificates of origin only to such American vessels as are bound to some port of France, and as are laden with the produce of the United States.

It will afford satisfaction to our merchants to know, and, therefore, I have to request you to inform me whether, in American vessels having such certificates of origin, they can export every kind of produce of the United States, and especially cotton and tobacco.

In addition to the intelligence communicated in your letter in relation to the certificates of origin, I have the honor of asking from you information upon the following questions:

1st. Have not the French Consuls been in the practice, under the authority of the French Government, of delivering, in the ports of the Uni-

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ted States, certificates of origin for American vessels bound to the ports of France and her allies, and laden with either colonial produce, or the produce of the United States?

2d. Have the French Consuls in the United States lately received from the French Government instructions not to deliver such certificates of origin for American vessels, and at what time did they receive such instructions?

3d. At what time did the French Consuls cease to issue certificates of origin to American vessels, in pursuance of instructions from their Government, in cases of destination to ports of the allies of France?

These facts being connected with questions interesting to our merchants in foreign tribunals, your goodness will pardon the resort to your aid in ascertaining them. I have, &c.

GEN. TURREAU, &c.

R. SMITH.

General Turreau to Mr. Smith.

WASHINGTON, Dec. 12, 1810.

SIR: If I have not replied sooner to the letter which you did me the honor to write to me on the 28th of last month, it is because I have sought information from the Consul General of His Majesty, whether he had not received, directly, instructions more recent than those which I had transmitted to him, and, also, to enable me to give a positive answer to the questions contained in the letter referred to above.

I reply, sir, to the first of your questions, that Messieurs the Consuls of His Majesty to the United States have always delivered certificates of origin to American vessels for the ports of France; they did it in execution of a decree of His Majesty of the first of Messidor of the year eleven.

Messieurs the French Consuls have, also, delivered them to vessels destined for neutral or allied ports, whenever they have been required of them. This measure was sanctioned and authorized by a circular despatch of His Excellency the Minister of Foreign Relations, under date of the 20th of April, 1808. This despatch prescribes the formality to be gone through for the certificates delivered in such cases.

I proceed now, sir, to reply to the second of your questions.

By a despatch of his Excellency the Duke of Cadore, of the 30th of August last, received by the Hornet, the 13th of last month, and of which information was given the same day to the Consuls and Vice Consuls of His Majesty, they are expressly prohibited from delivering certificates of origin for merchandise of any kind, or under any pretext whatever, if the vessels are not destined for France.

This reply to your second question, sir, furnishes you with a solution of the third. The Consuls and Vice Consuls of His Majesty will have ceased to deliver certificates of origin to vessels for any other place than France, immediately on the receipt of this circular, which will

reach them a few days sooner or later, according to the greater or less distance of the places of their residence.

Concerning cotton and tobacco, their importation into France is, at this moment, specially prohibited; but, I have reasons to believe, (and I pray you, meanwhile, to observe, sir, that they do not rest upon any facts,) that some modifications will be given to this absolute exclusion. These modifications will not depend upon the chance of events, but will be the result of other measures, firm, and pursued with perseverance, which the two Governments will continue to adopt, to withdraw from the monopoly and from the vexations of the common enemy a commerce loyal (*loyal*) and necessary to France as well as to the United States.

Accept, sir, the renewed assurances of my high consideration.

TURREAU.

Hon. R. SMITH, *Sec. of State.*

The Secretary of State to General Turreau,

DEPARTMENT OF STATE, Dec. 18, 1810.

SIR: I have had the honor of receiving your letter of the 12th instant, in reply to my inquiries in relation to certificates of origin, as well as to the admission into France of the products of the agriculture of the United States.

From your letter, it appears that the importation into France of cotton and tobacco, the produce of the United States, is, at this time, specially and absolutely prohibited.

From the decree of the 15th July, it, moreover, appears that there can be no importation into France but upon terms and conditions utterly inadmissible; and that, therefore, there can be no importation at all of the following articles, the produce of the United States, namely, fish-oil, dye-wood, salt fish, codfish, hides, and peltry.

As these enumerated articles constitute the great mass of the exports from the United States to France, the mind is naturally awakened to a survey of the actual condition of the commercial relations between the two countries, and to the consideration that no practical good, worthy of notice, has resulted to the United States from the revocation of the Berlin and Milan decrees, combined, as it unexpectedly has been, with a change in the commercial system of France, so momentous to the United States.

The act of Congress of May last had for its object, not merely the recognition of a speculative legitimate principle, but the enjoyment of a substantial benefit. The overture therein presented, obviously embraced the idea of commercial advantage. It included the reasonable belief that an abrogation of the Berlin and Milan decrees would leave the ports of France as free for the introduction of the produce of the United States, as they were previously to the promulgation of those decrees.

The restrictions of the Berlin and Milan decrees had the effect of restraining the American merchant from sending their vessels to France. The interdictions in the system that has been

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substituted against the admission of American products will have the effect of imposing upon them an equal restraint. If, then, for the revoked decrees, municipal laws, producing the same commercial effect, have been substituted, the mode only, and not the measure, has undergone an alteration. And, however true it may be that the change is lawful in form, it is, nevertheless, as true, that it is essentially unfriendly, and that it does not at all comport with the ideas inspired by your letter of the 27th ultimo, in which you were pleased to declare the "distinctly pronounced intention of His Imperial Majesty of favoring the commercial relations between France and the United States in all the objects of traffic which shall evidently proceed from their agriculture or manufactures."

If France, by her own acts, has blocked up the ports against the introduction of the products of the United States, what motive has this Government, in a discussion with a third Power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In such a state of things, a blockade of the coast of France would be to the United States as unimportant as would be a blockade of the coast of the Caspian sea.

The British edicts may be viewed as having a double relation; first, to the wrong done to the United States; secondly, to the wrong done to France. And it is in the latter relation only, that France has a right to speak. But, what wrong, it may be asked, can France suffer from British orders which co-operate with her own regulations?

However sensible the United States may be to the violation of their neutral rights under those edicts, yet, if France herself has, by her own acts, rendered it a theoretical instead of a practical violation, it is for this Government to decide on the degree in which sacrifices of any sort may be required by considerations which peculiarly and exclusively relate to the United States. Certain it is, that the inducements to such sacrifices are weakened, as far as France can weaken them, by having converted the right to be maintained into a naked one, whilst the sacrifices to be made would be substantial and extensive.

A hope, however, is indulged, that your instructions from your Government will soon enable you to give some satisfactory explanations of the measures to which reference has been made, and that their operation, in virtue of modifications which have not yet transpired, will not be as has been herein represented.

The President has received with great satisfaction the information that the Consuls of France have been heretofore, in the official and authorized practice of furnishing certificates of origin to American vessels, as well as to those destined to neutral ports, as to those whose sovereigns are in alliance with France; and that this practice, sanctioned by the French Government, did not cease in any part of the United States before the

13th of last month, and then, only in consequence of a despatch from the Duke of Cadore, bearing date the 30th of August preceding. This satisfaction arises from the hope that similar information may have been given to the Danish Government, and from a sense of the happy influence which such a communication will have had on the American property that had been seized and detained by the privateers of Denmark, upon the supposition that these certificates of origin were spurious, and not authorized by the French Government. It is, nevertheless, to be regretted, that the functionaries of France in Denmark had not made known to the Danish authorities, during the occurrence of such outrages on the American trade, the error of denouncing as illegitimate authentic documents which had been lawfully issued by the accredited agents of His Imperial Majesty. I have the honor to be, &c.

R. SMITH.

General TURREAU, &c.

Translation of a letter from General Turreau to Mr. Smith.

WASHINGTON, Dec. 25, 1810.

SIR: I have received the letter you have done me the honor to write me on the 18th of this month, and I hasten to transmit a copy of it to his Excellency the Duke de Cadore.

This despatch, sir, being an answer to the letters which I had the honor to write to you on the 27th of November and the 12th of this month, naturally takes me back to their object, to which I believe it is my duty again to call your attention.

I pray you to observe that the last instructions I have received from my Court relative to the new directions the commerce of France with the United States must follow, are of a very old date; the official despatches from which I have taken them are of the 12th and 28th of April last.

It is the more probable that the regulations of my Government, in regard to this commerce, have undergone some modifications, as the Consul General received by the Hornet despatches of the 10th July, and 22d and 30th August last, in which it is specially stated that cottons may be imported into France in American vessels, and under certain regulations; whereas, according to the instructions which were addressed to me on the 12th and 28th of April preceding, cotton and tobacco are specially prohibited.

I will add to these data, (*ces donnees*,) that, according to the orders transmitted to the Consuls of His Majesty respecting certificates of origin, and under the date before cited, (30th August last,) they may deliver them to all American vessels destined for France; observing that these certificates are not applicable *but to the products of the United States*. If these certificates of origin cannot be applied but to the productions of the United States, and cannot be given to any vessels but those destined for France, the introduction of these productions is not then prohibited there.

Relations with France.

You will be pleased especially to observe, sir, that the dispositions which were announced to me by the despatches of the 12th and 28th of April, are, of course, anterior to the repeal of the decrees of Berlin and Milan, and are necessarily without an object the moment the said decrees are no longer in force. I do not know of any subsequent acts which modify this repeal; for the instructions already cited, sent to the Consul General the 30th of August last, relative to the certificates of origin, are only a consequence of it, and formally exclude only colonial productions.

Furthermore sir, I have before me the letters of the Duke of Cadore to General Armstrong, under date of the 5th of August and 12th September, of which copies have been sent to me by order of my Court. These are the only documents on which it seems to me reasonable to fix the attention, (*s'arrêter*;) and I see in them nothing which can cause it to be supposed that the French Government may have had an intention to modify or to restrict the repeal of the before-cited decrees. This act contains no reserve; it does not exact any guaranty. The declaration of the Duke of Cadore is formal; and it is the provisions themselves of the act of the honorable Congress of the 1st of May last, which have dictated to him the consequence.

I seize this occasion with eagerness, sir, to renew to you the assurance of my high consideration.

TURREAU.

C.

General Armstrong to Mr. Smith.

WASHINGTON, December 27, 1810.

SIR: The enclosed documents, marked 1 and 2, were intended to have made part of my last communication. The paper, entitled *Avis au commerce*, &c. (notice to merchants,) contains a tariff of the new duties payable in France, and shows, besides, what are the articles of commerce admissible there. If this paper has no other value, it will be found important from the illustration it gives to that passage of the Duke of Cadore's letter to me of the 12th of September last, in which he says that "American vessels loaded with merchandise, the growth of the American States, will be received without difficulty into the ports of France." It is also in perfect concert with the practice of the French custom-house, in the case of the ship *Ida*, coming from Boston with a cargo of cotton. I am, sir, &c.


JOHN ARMSTRONG.

Hon. ROBERT SMITH, *Sec'y of State*.

Notice to merchants on the scale of the 1st of August, 1810.

Designation.	Tares.	Custom-house duties.
Oars	-	2 francs the 100.
Cotton of Brazil, Surinam, Cayenne, Demarara, and Georgia—long staple	6 per cent.	800 francs the 100 killogrammes
Cotton of every other country except Naples	6 per cent.	600 francs the 100 killogrammes.
Logwood	-	80 francs the 100 killogrammes.
Cocoa	3 per cent.	1000 francs the 100 killogrammes.
Coffè in bags	3 per cent.	} 400 francs the 100 killogrammes.
Coffè in casks	12 per cent.	
Cigars in boxes	12 per cent.	400 fr'cs the 100 kill. and 80 on manufacture.
Cloves in bags	2 per cent.	600 francs the 100 killogrammes.
Gum Arabic in bags	2 per cent.	4 francs 8 centimes the 100 killogrammes.
Fish oil in casks	15 per cent.	25 francs the 100 killogrammes.
Beans in hogsheads	12 per cent.	100 centimes the 100 killogrammes.
Indigo in seroons	6 per cent.	} 900 francs the 100 killogrammes.
Indigo in cases and casks	12 per cent.	
Potash in casks	12 per cent.	15 centimes per 100 francs.
Black pepper in bags	3 per cent.	400 francs the 100 killogrammes.
Oak plank	-	15 centimes per cent. <i>ad valorem</i> .
Peruvian bark in boxes	12 per cent.	} 200 francs the 100 killogrammes.
Peruvian bark in seroons	2 per cent.	
Rice in barrels	12 per cent.	10 francs the 100 killogrammes.
Rum ( <i>au litre</i> )	-	80 centimes <i>le litre</i> .
Rocou in casks	12 per cent.	12 francs the 100 killogrammes.
Clayed sugar in boxes and casks	12 per cent.	400 francs the 100 killogrammes.
Raw sugar in boxes and barrels	15 per cent.	300 francs the 100 killogrammes.
Tobacco in leaf, box, or hogshead	12 per cent.	} 400 fr'cs the 100 kill. and 80 on manufacture.
Tobacco in <i>sacs ou paniers</i>	2 per cent.	

NOTE.—The additional *tenth* is not comprised in the above duties.

 The document, of which the above is a translation, is in print; and under the words "Custom-house duties," (*"Droits de Douane,"*) are in manuscript the following words, viz: "By decree of 5th August, 1810."

*Relations with Spain.*

## SPAIN.

[Communicated to Congress, January 10, 1811.]  
 To the Senate and House of  
 Representatives of the United States :

I communicate to Congress, in confidence, the translation of a letter from Luis de Onis, the Captain General of the province of Caraccas.

The tendency of misrepresentations and suggestions, which, it may be inferred from this specimen, enter into more important correspondences of the writer, to promote in foreign councils, at a critical period, views adverse to the peace and to the best interests of our country, renders the contents of the letter of sufficient moment to be made known to the Legislature.

JAMES MADISON.

JANUARY 19, 1811.

Translation of a letter from Luis de Onis to the Captain General of the Province of the Caraccas, dated

CITY OF PHILADELPHIA,  
 February 2, 1810.

The Administration of this Government, having put the stamp upon the servile meanness and adulation in which they stand in relation to their oracle, Bonaparte, the day before yesterday, by their direction, Mr. Eppes, the son-in-law of the former President, Jefferson, made a proposition that a Minister should be immediately sent to Joseph Bonaparte, at Madrid. This was supported in the committee in which the House then was, by Mr. Cutts, who is the brother-in-law of President Madison. There were various debates, there were howlings of the tribunals, there were sarcasms against the Supreme Central Junta, and many trifling observations from one party and the other, among which mention was made of the arrival of a Minister from the Supreme Junta, and of this Government's having wisely refused to receive him; and, at length, a vote was taken, from which it resulted that, for the present, no Minister was to be sent to Joseph.

In the annexed paper you will see all the debates, which, for want of time, I have not been able to have translated. If your Excellency should not be informed, by my former despatches, of the mode of thinking of the present Administration, this alone will show the little hope there is of obtaining anything favorable from it, but by energy, by force, and by chastisement.

The facility—I again repeat it, and I will repeat it a thousand times—with which American vessels are admitted into our colonies, preferring them to our own, makes these people believe that our weakness does not permit us even to talk to them on equal terms, much less to take measures which may injure them. From hence springs the great opinion (*la grande opinion*) they have, that the intruder, Joseph, will rule in Spain and her colonies; and hence the incitement to their scandalous conduct in promoting, by every means in their power, the machinations

of Joseph to make himself master of our colonies, as if upon that depended their happiness.

The determination of making war on England, and of treating Spain with contempt, supposing that her nullity did not entitle her to anything else, was taken by the present Administration some time since; though it was not in them the determination of reason. To accomplish it, they thought of forming an alliance, offensive and defensive, between France, Russia, Denmark, Sweden, and the United States; and some even suppose that it is formed. With this object they have sent Mr. Adams to the Court of St. Petersburg, in quality of Minister Plenipotentiary, directing him to examine on his way (*haciendole recorrer al paro*) the Courts of Stockholm and Copenhagen; but, notwithstanding this, if England should display her energy, in however small a degree, and if, on our part, some vessels should be sent to their coasts, and some troops should draw near to Louisiana, there is reason to believe that we should see these provinces separated and divided into two or three Republics, and, consequently, they would remain in a state of perfect nullity. We should soon have from the Republic of the North, which would be our friend, all the supplies which are now drawn from the others, who would perish from poverty and quarrels among themselves.

This country is now without a cent, with a deficit of four millions of dollars in her revenue, with not more of an effective army than six thousand despicable men, of whom two thousand five hundred, that they had at New Orleans, are reduced by death to six hundred; and although they have passed a law for one hundred thousand, much time and money will be necessary to organize them. Its navy is for the most part disarmed, although they propose to arm it, and the whole of it is reduced to eight or nine frigates. The blindness of these people is such, that the Secretary of the Treasury (Gallatin) speaking with Colonel Joseph de Gonzales, late Governor of Puno, who, from his having come from the Havana, Mexico, and other provinces, he believed (not knowing his integrity) to be one of the many emissaries of Napoleon, the caste which abounds most here, offered to him the constitution of Paine, and other papers relative to the liberty which here they dispute about, persuading him to send them to Mexico and our other colonies, and that he should endeavor to induce them to unite themselves to this Republic; that here they were ready, if this succeeded, to move near to them, or even to place in their country the seat of Government. These, sir, are the ideas with which this Administration is animated. Notwithstanding, at the time they observed this conduct, they sent General Sumter in the character of Minister Plenipotentiary to Rio Janeiro.

God preserve you many years.

LUIS DE ONIS.

TO THE CAPTAIN GENERAL  
 of the Province of Caraccas.



*Encouragement to Manufactures.*

## ENCOURAGEMENT TO MANUFACTURES.

Communicated to the Senate, January 22, 1811.

*To the honorable the Congress of the United States, the memorial of the subscribers, citizens of the town of Lexington, and county of Fayette, and State of Kentucky, respectfully sheweth:*

That the present situation of the mechanics and manufacturers of the United States, is peculiarly interesting to the people generally, and well deserves the attention of Congress. In all the acts and deliberations of your honorable body, it appears to your memorialists, that a predilection for the interest of commerce has always been discoverable, while little has been done in favor of the internal industry of the country. Your revenue system, it must be confessed, has afforded it some partial protection; but that system appears to have been calculated only for the purposes of revenue; and, as powerfully as it might be made to encourage domestic manufactures, no act seems to have been adopted with that view; on the contrary, commerce has met with your exclusive protection and support. To prove this, let us refer to the immense sums that have been expended in the fortification of the seaports; to the establishment of a navy; to the expenditures occasioned by our intercourse with foreign nations; to the duties which have been laid on foreign tonnage; to the bounties which protect the fisheries; to the credits given to merchants at our custom-houses; and, in fine, to the many sacrifices which have been made to commerce. We do not, however, condemn that policy which gives bounties and protection to the merchant; nor, though local in its operation, to the support which is afforded to the fisherman. We feel, upon those subjects, as Americans should do. Remote as we are situated from the seats of commerce, we do not repine at those regulations which are made for its benefit, and are content when any species of enterprise and industry is encouraged by the Government—for we know well, that the United States compose an extensive nation; that our citizens are scattered over an immense country, having various soils and climates, with as various pursuits adapted thereto; and that a Government forming laws for this population must consult the wants and necessities of each, and, by attending to particulars, promote the general good of the whole. We complain only because the protection and encouragement of industry is not made universal, and extended to every pursuit which is known in our country. If it be just in a Republic, established for the common good, to give to any one pursuit bounties, encouragement, and protection, we hold it as an undeniable truth, that all other pursuits are equally entitled to them. That the industry of the mechanics and manufactures should likewise be protected, appears from other and powerful considerations.

The rapid accumulation of wealth which the United States have made since the wars of the French Revolution, was occasioned by an un-

natural extension of commerce, and an unnatural demand for the productions of our agriculture. The labor there withdrawn from agriculture, the ravages of contending armies, and the destruction of the commercial navy of continental Europe, created a demand for our produce, and gave such employment to our shipping and such encouragement to our merchants as to occasion that rapid accumulation of wealth, and those internal improvements which have even astonished ourselves and been the wonder of the world. Upon the continuance of this state of things we are not to depend. An eternal war in Europe is not to be expected; the state is unnatural; and experience shows, that one party must give way when its resources are exhausted, or it is humbled by the victories of its enemy. When this period arrives, what has heretofore been the life of our industry, will no longer animate it, and we shall be compelled to look to other resources to preserve the wealth which we have acquired. But how can it be preserved if we do not change our system, and Congress does not give another direction to the industry of the country? Where shall we find a market for the productions of our soil? And where will our shipping find employment?

A brief view of the history of our commerce, we conceive, will place this subject in a proper point of view.

Before our Revolutionary war, our markets were in the dominions of Great Britain, and such of the colonies of European Powers as we could obtain admittance into by smuggling. After the peace of 1783, we lost the regular market of the former; and the latter, being precarious in its nature, was of little moment. Such were the colonial and commercial systems of Europe, as not to permit the introduction into their dominions, of articles which they could produce themselves, unless in seasons of scarcity; so that during the period of time which elapsed between the acknowledgment of our independence and the commencement of the French Revolution, all of our citizens who depended upon foreign commerce, were often reduced to great distress. The importation of foreign commodities drained us of our treasures; and our other commerce did not bring us back a correspondent proportion of the precious metals. Have we discovered that there exists in the breast of the rulers of Europe any disposition to abandon, upon the return of peace, their systems of commerce? Even during the wars which have raged for a few years past, they have renewed their prohibitions whenever they could do without us. In times of peace, the Powers of Europe can supply themselves and their colonies with all the provisions which they may have occasion for. Their colonies can rival us in tobacco, and in all the raw materials which they want for manufactures. In their ports we are, therefore, to expect a permanent market for a small part of our productions only, and but an uncertain and temporary one for the bulk of them. Asia and Africa want nothing from us. We hazard nothing, then, when we assert, that

*Encouragement to Manufactures.*

after the wars of Europe are over, foreign markets will not be found for our surplus produce, and that we shall be compelled to look at home for the reward of our labor. Another fact, perhaps, ought not to pass unnoticed. Our country is rapidly increasing in population, and its surplus produce for exportation must increase in an equal ratio. Not so the demand of foreign markets. All those circumstances combine, in the opinion of your memorialists, to show the policy of directing the industry of our citizens into such channels as will not be affected by the edicts, regulations, and wars of Europe; and to prepare, in time, for that change in business, which must take place, (and to the general distress of the country,) when a peace there will put an end to our carrying trade, and destroy the markets for our produce.

A change like this, in the direction of capital and labor, (it moreover appears to your memorialists,) will have a beneficial effect upon our foreign relations. If our most important market be at home, so large a proportion of our property will not be subjected to the depredations of the pirates of the ocean; and the people, less embarrassed by the interruptions of commerce, will more readily unite in measures calculated to vindicate the honor, and assert the rights of the nation. To prove this, let us appeal to facts; the most recent, and, of course, the most convincing, have happened within a few years. The edicts of France and England, which produced the embargo, occasioned, also, the interruption of that commerce, upon which much labor depended for employment, the merchant for his profits, and the farmer for the sale of his productions. Some capital was idle, many vessels were rotting in our ports, produce found no market, and the plough in some places was abandoned. Patriotism would prompt us to suffer for our country. But the sailor cannot feed himself in port; the farmer dislikes to lose his crops; the merchant looks with impatience upon blasted prospects and ruined fortunes; and few will be content to live on patriotism while their families are starving. Had our acting capital given life to domestic pursuits; had it given employment to labor; had our provisions been consumed, and our raw materials been fabricated by domestic artisans, instead of the farmer being compelled to look abroad in search of a market for both, we should not have felt so much the pressure of the embargo, nor would our interest have warred with our patriotism. This is the course of human events, and history proves, that the rulers of nations have always been obliged to accommodate their differences with others, upon better or worse conditions, according as the contest bore heavy or not upon their own people. Were the citizens of the United States, however, in the situation alluded to, how different would be the attitude which our Government could assume! And how much less would foreign Powers calculate upon exciting a clamor against it by the interruption of our commerce, or the general stagnation of our business.

That the interest of the country coincides with

the political and national considerations which we have enumerated in support of domestic manufactures, has been the opinion of the most enlightened statesmen of whom America can boast, and moreover, appears, from very obvious reasons. Upon the quantum of its labor is said to depend the wealth of a nation. But, to create wealth, labor must be productive; and those pursuits which put most of it into action seem best calculated to make it so. There is no pursuit—agriculture excepted—which has an effect of this nature, equal to that of the mechanic and manufacturer. The manufacturer works up our raw materials, and consumes our provisions. What he earns is kept at home, and is almost immediately circulated again, by various channels, through society. The merchant is by no means so useful a character; part of his gains are sent abroad, and paid away to foreigners. The mechanic and manufacturer likewise contribute to make the country really independent, by furnishing those supplies which we should otherwise be dependent for on foreign nations. The nation which produces but a small part of what she can consume, or grows but few articles, we have already seen, must always be a dependent one. Her wants cannot be regularly supplied, and her business appears subjected to embarrassment. Say, that her pursuit is commerce. When that is interrupted, as, for example, it has been for the last sixteen years in Holland, and how soon will she become impoverished and distressed? Let her pursuit be exclusively agriculture; and the depression of markets (which has often been the case with respect to our provisions, tobacco, and cotton,) will paralyze the industry and enterprise of the nation. Whereas the multiplication and diversity of pursuits would give a country resources which others could not deprive her of; and the industry of one part of it would cherish, invigorate, and support that of another. Nor can it be an unimportant consideration, that the increase of manufactures would tend to keep at home the precious metals, the principal and the most convenient as well as the most useful representative of wealth and labor. Desirable, however, as it may be to encourage manufactures, it can be done effectually only by Congress. The mechanic and the manufacturer in the United States has to contend with obstacles unknown to the foreigner. The British manufacturer, his great competitor, is protected by prejudice, by the course of business, by the low price of labor, and the skill of his workmen, but above all, by the strength of his capital, and the bounties and encouragement given to him by his Government. And upon almost all heavy articles, as to which an American has the best opportunity of rivaling him, those bounties and encouragements are more than equal to the freight, charges, and insurance upon the manufactured article. The American manufacturer is at present poor; he has buildings to erect, workmen to teach, and powerful prejudices to overcome: his limited capital often makes it necessary for him to force markets, while his opponent can wait for, or com-

*Encouragement to Manufactures.*

mand one at pleasure. Indeed, it is to be feared, that the foreigner will purposely seek opportunities to depress markets, in order to remove the American out of his way. Such have often been the effects of the jealousy of trade. Permit us, while upon this subject, to remind your honorable body of the celebrated contest between the British and Dutch, with the imperial East India Company; where the former, by depressing the prices of commodities, succeeded in annihilating or ruining the latter, supported as it was by the weight and treasures of the Emperor Joseph; a fate which may attend many establishments in America.

When we ask for adequate protection from Congress to our own manufactures, we are aware of jealousies which will be excited against us. Why, it will be asked, tax one portion of the people to benefit another? We answer, for the benefit of the whole, and to equalize the imposts which are laid to support Government. Imposts levied with this view is but taking from one pocket what is abundantly repaid to the other. Whatever gives life to the domestic industry of the country benefits every man in it. Whatever sums are paid to keep our resources at home is not lost. As in the human frame, it is like the veins returning blood to the heart, whereby the whole system may be replenished. Such are the lessons furnished by experience. How has Great Britain become the first commercial and manufacturing nation in the world? By her superior arts and industry? No. In these she is rivalled by her great competitor—by her system of restriction and protection; by those regulations which encourage her own commerce and manufactures, and by depressing those of foreign nations. What she can make and produce herself she suffers no country to supply her with. By these means she has made the industry of all nations her tributary, and by these means she has monopolized the commerce of, and manufactured for the world. But the effect of our own discriminating duties upon foreign tonnage, and that protecting system which has raised the fisheries of New England from insignificance, to be the first in the world, show sufficiently the effects produced upon the industry of a nation by this system of restriction and protection. Admitting, however, that a system like this may operate as a tax upon the industry of one part of the country, at the expense of another, it cannot long be so. When the domestic manufacturer shall have acquired experience, and his laborers are completely instructed in their business; and when, by industry and success, he shall have acquired capital sufficient to enable him to extend his business; the natural effect will be to reduce his prices to a very moderate profit; and lower often than what the same article could be afforded for from abroad.

But would not good policy dictate that the United States should meet restriction by restriction, and contend in this way against all nations who wish to make our labor and industry tributary to them? Shall we not be blind to our own

interest if we omit doing so? Repeatedly have our public characters declared that manufactures should be encouraged, and praised have those citizens often been who have established them. But they must have something more substantial to support them than praise. If foreign Governments can prevent them (as we have shown they can, and probably will do) from being productive to the proprietors, experience will show the manufacturer that his money has been expended in vain; and ill success will deter others from the same pursuit. This latter consideration we hope will have its due weight with Congress, especially when the circumstances are recollected under which our most considerable manufactories were established. The non-importation act, but particularly the embargo act, by interrupting the trade of Europe, created a demand for articles which could not be obtained from abroad, and to supply which many workshops have been erected. Out of one establishment arose another. If Congress are disposed to encourage them, now is the time. A moment so favorable to do so may not occur for years—since many citizens are disposed to engage in them if those which are erected prove successful. Success crowns every step with popularity, and produces imitators and followers; whereas, misfortune has a contrary effect. Damped would this spirit be, if the expected settlement of our differences with foreign nations were to occasion such an influx of foreign commodities as to undersell our manufacturers. Then those buildings, workshops, and warehouses, upon which so much labor and money has been expended, would lie waste, and their proprietors, with the loss of purse, would have the additional mortification of being considered merely as projectors.

But should our disputes with foreign nations end in war, and at this moment, when new codes of maritime law are hourly proclaimed, and the peaceful pursuits of all neutral nations are interrupted by the great belligerent Powers of Europe; when old States are daily overturned, and new kingdoms are as often erected; we cannot calculate upon preserving peace for a moment: would not a Congressional act for the permanent support of the mechanics and manufacturers of the country much encourage those citizens who are disposed to devote their capital to those pursuits, and as much assist our Government in the vigorous prosecution of war? You have made provision for the permanent support of a navy; and in any war in which you might engage, this must be used as a great means to annoy. Your navy, as well as the shipping of the United States, have heretofore depended upon foreigners for the supply of cordage and sail cloth. You must have clothing also for the navy and army, and depend upon the internal resources of the country for the supply of those articles. The people must likewise depend upon the home market for the supply and sale of everything.

The mechanic and manufacturer, with the protection which Congress could promise, would work with spirit, confidently expecting a con-

*Sinking Fund.*

stant remuneration for their labor. Whether, however, this protection should be afforded by bounties, or by prohibitory, or protecting duties upon all articles which the country can produce, or in whole or in part by loans, as recommended by the present Secretary of the Treasury, the subscribers will not presume to point out. We will, however, state that, as capital is much wanted by mechanics and manufacturers, a combination of those means, might be attended with salutary effects.

As citizens of the State of Kentucky, permit us to add a few considerations, arising out of the local situation of our country. Kentucky is rich in soil, but remotely situated from the seats of commerce. Her proximity to Indiana and Ohio subjects her to continual drains of treasure for the purchase of the United States' lands. Large sums of money are annually sent off for foreign productions; and the merchants of the United States, who are the real collectors of the revenue, pay our duties to the Treasury. Protected as we are by the strong arm of, and attached to, the Union, with this arrangement we are satisfied. But when the fisheries of New England are not only protected by duties, but encouraged by bounties; when, comparatively speaking, no public moneys are expended here, but all at Washington and on the seaboard, for the support of Government and the protection of a commerce, in which, from our local and insular situation, we cannot participate; we think we have a rightful and just claim to some indemnification; and this can only be given to us by encouraging and protecting our internal industry.

Wherefore, we pray that Congress will take this subject into consideration, and, as in duty bound, we shall ever pray, &c.

LEWIS SANDERS.

*And one hundred and twelve others.*

## SINKING FUND

[Communicated to the Senate, February 4, 1811.]

The Commissioners of the Sinking Fund respectfully report to Congress, as follows:

That the measures which have been authorized by the board, subsequent to their last report, of the 3d of February, 1810, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury, to this board, dated the first day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

G. CLINTON, *President of Senate.*

R. SMITH, *Secretary of State.*

A. GALLATIN, *Sec'y Treasury.*

C. A. RODNEY, *Atty Gen. U. S.*

WASHINGTON, Feb. 2, 1810.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

11th Con. 3d Sess.—41

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1808, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - \$651,103 33

Together with the sums disbursed during the year 1809, from the Treasury, on account of the principal and interest of the public debt; which sums, as appears by statement C, annexed to the last annual report, amounted to - - - 6,452,698 52

And amounting, together, to - \$7,103,801 85

Have been accounted for in the following manner:

I. There was repaid into the Treasury, during the year 1809, on account of the principal of moneys heretofore advanced for the payment of the foreign debt, as appears by the statement E, annexed to the last annual report, a sum of - - - \$93 20

II. The sums actually applied during the same year to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, to \$6,742,708 97, viz:

1. Paid in reimbursement of the principal of the debt, including the last instalment of the Dutch debt - - - \$3,825,564 06

2. Paid on account of the interest and charges on the public debt 2,917,144 91

6,742,708 97

III. The balance remaining unexpended at the close of the year 1809, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to - - - 360,999 68

\$7,103,801 85

That, during the year 1810, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

I. On account of the interest and reimbursement of the domestic funded debt - - - \$7,157,298 08

II. On account of the interest on the Louisiana stock, and on exchanged and converted stocks, payable in Europe - - - 844,674 35

Amounting, together, as will appear by the annexed list of warrants, marked C, to - - - \$8,001,972 43

Which disbursements were made out of the following funds, viz:

I. From the funds constituting the annual appropriation of eight millions of dollars for the year 1810, viz: From the fund arising from the interest on the debt transferred to the credit of the Commissioners of the

*Settlers on the Public Lands.*

Sinking Fund, as per statement I -	\$1,646,578 84
From the fund arising from the sales of public lands, being the amount paid into the Treasury from 1st October, 1809, to 30th September, 1810, as per statement K -	672,417 90
From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of vessels -	5,679,915 47
Amounting to -	7,998,912 21
Which sum of -	7,998,912 21
Together with the sum advanced during the year 1809, on account of the appropriation for the year 1810, amounting, as per last annual report, to -	1,087 79
Makes the amount of appropriation for the year 1810 -	\$8,000,000 00

II. From repayments into the Treasury on account of advances to Commissioners of Loans, as will appear by the statement E, viz:

Repayment of principal advanced from the Treasury -	\$2,639 37
Interest recovered -	420 85
	3,060 22
That the above-mentioned disbursements, together with the above stated balance which remained unexpended at the close of the year 1810, of	8,001,972 43
	360,999 68

And amounting, together, to - \$8,362,972 11

Will be accounted for in the next annual report, in conformity to the accounts which shall then have been rendered to the Treasury Department.

That, in the mean while, the manner in which the said sum has been applied is estimated, as follows:

I. The repayments into the Treasury, on account of the principal, have, during the year 1810, amounted, as by the above mentioned statement E, to -	\$2,639 37
II. The sums actually applied, during the year 1810, to the principal and interest of the public debt, are estimated as follows:	
1. Paid in reimbursement of the principal of the public debt, and including the whole of the exchanged six per cent. stock -	\$5,163,476 93
2. Paid on account of interest and charges on the same -	2,698,664 10
	7,862,141 03

As will appear by the estimate F.

III. The balance which remained unexpended, at the close of the year 1810, and applicable to payments falling due after that year, is estimated, per estimate G, at -	498,191 71
	\$8,362,972 11

That, in conformity to the resolution of the Commissioners of the Sinking Fund, of April 26th, 1810, there was reimbursed, at the close of the year 1810, the residue of the exchanged six per cent. stock, amounting to \$3,751,125 26; which sum of \$3,751,125 26, forms a part of the sum of \$5,163,476 93, above stated, as the amount of the principal of the public debt reimbursed in the year 1810.

And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, and to the Treasurer of the United States, in trust for said States, and standing to their credit on the books of the Treasury, on the 31st December, 1810, no stocks having been transferred in payment for lands during the year 1810.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, Feb. 1, 1811.

[The tabular statements are omitted.]

## SETTLERS ON THE PUBLIC LANDS.

[Communicated to the House, January 9, 1811.]

TREASURY DEPARTMENT, Jan. 7, 1811.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the 17th ultimo, respectfully reports:

That, in conformity with the provisions of the act "to prevent settlements being made on lands ceded to the United States, until authorized by law," the Registers of the land districts east and west of Pearl river, in the Mississippi Territory, were instructed to give public notice of the act, and to invite persons who had settled on the public lands to avail themselves of the permission granted to them by the act to remain as tenants at will, on their signing declarations that they laid no claim to the land. Copy of which instructions (marked A,) is hereto annexed.

That it will appear, from the letter of the Register of the Land Office west of Pearl river, dated 28th of March, 1807, and from the transcripts of permission granted in that district to such settlers, (copies of which, marked B, B 2, and B 3, are hereto annexed,) that they did generally comply with the provisions of the law, and sign the declarations required from them.

That no information of a subsequent date has been received, respecting intrusions on the public lands in that district, nor is it believed that such intruders are numerous, or lay any claim to the land, those only excepted who derive their claim from certain species of British and Spanish grants, on which Congress has not yet made a final decision.

That no returns of permissions granted east of Pearl river were received from the late Register of that Land Office, and that the term for granting them had expired before the present Register was appointed to that office.

That, although no official information has been received by this department respecting the number of intruders, in that district, which includes all the settlements on the river Mobile, it is sufficiently known that they are more numerous than

*Settlers on the Public Lands.*

in any other part of the Mississippi Territory; but that it has never been suggested that any of them laid any claim to the land.

That the measures taken prior to the year 1810, for carrying the provisions of the law into effect in Madison county, are detailed in the report, made on the 15th day of December, 1809, to the House of Representatives, and which is respectfully referred to.

That, information having been subsequently received that the claim of Michael Harrison, a Yazoo claimant, was revived, and that he remained on the land, the subject was again laid before the President, and the information communicated to the Secretary of War, as will appear by the correspondence, (marked C.)

That, no power being vested in the Secretary of the Treasury, or in any of the land officers, to take any measures for the removal of intruders, the actual orders given in this instance to that effect did not fall within the province of, and were not transmitted by, the Treasury Department.

And that, as it is not made the particular duty of any local officer to enforce the penalties imposed by the law, it necessarily follows that the evil is neither checked in its first beginning, nor known to the Executive, until its magnitude has become such as to require, for its suppression, the application of military force.

All which is respectfully submitted.

ALBERT GALLATIN.

A.

Copy of a letter from the Secretary of the Treasury to Thomas Williams, Esq., Register of the Land Office west, and Nicholas Perkins, Esq., Register of the Land Office east, of Pearl river.

TREASURY DEPARTMENT, *March 28, 1807.*

SIR: I enclose the copy of "An act to prevent settlements being made on lands ceded to the United States, until authorized by law."

It is thereby enacted, 1st. That persons who had settled on the public lands before the passing of the act, March 3, 1807, and did on that day reside on the same, may, by application to the Register, or to the Register's special deputy, obtain, on certain conditions, permission to remain on such lands.

2d. That it shall be lawful for the President of the United States to remove all those who may settle on the land after the passing of the act, or who, being settled previous thereto, shall not, before the 1st day of January next, have obtained permission to remain thereon, in the manner above-mentioned. Penalties, and a forfeiture of any supposed title, are also annexed to the offence, on which I will not dwell, as the first mentioned provisions of the act are those which you are to carry into effect.

You will please to appoint as many persons as you may think fit to receive applications, assigning to each such person a tract, designating, by precise boundaries, either one or more counties, or a certain number of townships, so as to render

the applications easy to each settler. You may reserve to yourself a certain district, in which you may receive the applications yourself, or appoint a person for that district, as will best suit your own convenience.

The persons thus appointed must, as well as yourself, publish the substance of the act, so that the settlers may know generally that they will be removed, and exposed to penalties, if they do not apply for permissions, and that new settlements are altogether prohibited. Whenever an application is made, it should specify, with precision, the tract applied for, (not exceeding three hundred and twenty acres;) and if the land has been surveyed, the application must be for one or two quarter sections, to be specially designated. As, however, from ignorance, the parties may not be able always to do this, they must be assisted by the officer in framing the application; and even informal ones must not, in the first instance, be rejected, provided they state the water-courses on which the land lies, the date of the improvement, and by whom made. At the foot, or on the back of the application, or of the permission hereafter mentioned, the party must sign a declaration in the form annexed, (A).

All the applications received by the persons appointed by you must be transmitted to you, and you will thereupon grant permissions of the form (B); duplicates being signed by the parties, and retained by you.

The applications and permissions must be entered on a book kept for that purpose; but it is not necessary that they should be recorded at large. A register of the form (C) will be sufficient, and by endorsing on each application and permission its number, they may be always referred to from the register.

It is possible, that, from the extent of your district, and the inconvenience and delay arising from double transmission to and from you, of the applications and permissions, you may think it more eligible to authorize at once the persons appointed by you to grant the permissions. This you may do. But in that case, you must transmit to such persons the necessary instructions, and forms B and C; (the form A they must have at all events;) they must sign the permissions in their own names, adding the words "for A B, Register of the Land Office of —;" and they must, on the 1st of January next, transmit to you the Register's applications and duplicates of permissions, signed by the parties. You will, as soon thereafter as may be, state to this Department the number of applications and permissions, and, where the land has been surveyed, transmit a list of the tracts for which permissions have been given.

It may not be improper to remark, that such persons as may have formed settlements subsequent to the date which would entitle them to a right of pre-emption, cannot refuse to sign the required declaration, since they do not lay any claim to the land; and without pretending to encourage their expectations, a cheerful compliance on their part with the law, by signing

*Settlers on the Public Lands.*

the law, and thus acknowledging themselves to be tenants at will of the United States, would not certainly injure their cause.

As to the persons who, having obtained pre-emptions, wish that they may be converted into donations, it is sufficient to observe, that the present law is inapplicable to them; for their claims being recognised and confirmed as pre-emptions, they cannot be disturbed in their possession, and are positively excepted from the operation of the law.

Congress having directed special reports to be made of all complete British grants, duly filed with the Register, but not confirmed for want of a settlement, before 27th October, 1795, and also of all incomplete titles, which would have been confirmed had they not been granted to minors; these two descriptions of claims must be viewed as being still under the consideration of the Legislature; and claimants of either description, who have, prior to the passing of the present law, made settlements on lands thus claimed, will not be disturbed, though they may not sign the declaration required by the act. The President has also instructed me to say, that a representation having been made to Congress in favor of persons claiming under incomplete Spanish titles, not confirmed for want of actual settlement, on the 27th October, 1795, which representation has not yet been decided upon by that body, he will not order claimants of that description, who have, prior to the passing of the present law, settled on lands thus claimed, to be removed till after the end of the next session of Congress. But this indulgence will not be extended to persons forming settlements after the passing of the act, nor must it, by any means, be construed as giving any sanction whatever to the claim.

It may, perhaps, be useful that the inhabitants of the territory should be made acquainted with the intention of the President, as it relates to these several descriptions of persons.

The certificate, contemplated by the last section of the act, must be expressed in the very words of the act, and will be given by you on the application of either the person acting as marshal, or of the attorney prosecuting for the United States. But as the President has not yet issued any instructions on the subject of removing the intruders, it is not probable that any such application will soon be made. It will be desirable, in the meanwhile, that you should obtain, through the channel of the persons whom you will appoint for the purpose of receiving applications, or in any other way, an estimate of the number of intruders on the public lands in your district, and also whether any of them lay, or pretend to lay, any claim to the land.

And I have to request that you would, from time to time, give information both to this Department and to the officer acting as marshal, of any new intrusions which may take place.

Should any application be made for a lead mine or salt spring, you will be pleased to transmit the same to this office, together with your

opinion of the terms on which it might be proper to lease the same. I am, &c.

(B.)

Copy of a letter from the Register of the Land Office west of Pearl river to the Secretary of the Treasury.

LAND OFFICE WEST OF PEARL RIVER.

August 10, 1807.

SIR: I have delayed acknowledging the receipt of your letter of the 28th March, covering an act for the prevention of settlement on public lands, until I could have it in my power to give you some account of the measures pursued, in order to carry such of the provisions of that law into effect, as appear to have been particularly in your view.

Instead of selecting a number of deputies in the different parts of my district, for the purpose of receiving applications and issuing permissions, I thought it the better course to appoint particular places, along on the frontiers, where I could meet the people in person, and soften, as far as possible, the irritation this law had excited, and to explain away misrepresentations, if any were afloat. I have just returned from this service, and am happy to inform you that the experiment has done justice to my expectations. So far from witnessing any irregularity, I found nothing but a disposition to comply promptly with the law. This is to be attributed, not to my feeble efforts, but to the good sense and temperance of the people, and, above all, to that sound Republican maxim, that a law, although it may be deemed a bad one, is, nevertheless until repealed, sovereign.

It cannot, however, be denied, that they were, and still are, alarmed at some of the provisions of this law; and, indeed, from their situation, it is impossible they should be otherwise. Some of those settlers commenced their improvements three or four years ago, under an impression that the lands would be open for sale in a short time. They have continued to improve from necessity, and are now seriously apprehensive that speculators will compel them to pay for their own labor. Let it be recollected that those settlers were not intruders in the strict sense of the word. In seating themselves on the land, their views were to purchase whenever the United States would sell; and they have been extremely anxious for the arrival of this period. When it is considered that the only boon they ask of the Government, is to purchase for a *bona fide* consideration, I think it may be truly said, they ask but little indeed; and it is to be sincerely regretted that this little should be withheld. I speak with a warmth on this subject which your goodness will excuse. I have been among those people. In them I see industrious citizens, honestly and honorably engaged in the acquisition of a competence for their families, and firmly attached to the principles of our Government. These, sir, are claims to public patronage, which I feel fully persuaded will strike you with equal force. To quiet their fears, and put their anxieties at rest, I

*Settlers on the Public Lands.*

would respectfully suggest, that a right of pre-emption is the only thing, under all circumstances, calculated to produce those happy effects.

There are a number of settlers on lands which have been adjudged by the commissioners to be antedated grants.

I have declined granting permissions to settlers, until I could receive instructions from you, giving them assurances that those instructions would arrive in time to enable them to comply with the law, if your decision should be that they are within its purview. I shall leave this place the day after to-morrow for Richmond, to attend at Burr's trial; from thence I shall proceed to Washington City. In the meantime, I shall leave my office in the charge of Mr. Parke Walton, whose knowledge of business and zealous fidelity will prevent any public inconvenience from my absence, and will insure a prompt obedience to all instructions which may issue from the Treasury.

I have the honor to be, with high consideration, your most obedient servant,

THOMAS H. WILLIAMS.

A. GALLATIN, Esq., Sec'y of the Treasury.

C.

*Correspondence respecting the intruders in Madison county, Mississippi Territory, subsequent to the report of the 15th December, 1809, to the House of Representatives.*

Extract of a letter from John Brahan, Esq., Receiver of Public Moneys at Nashville, to the Secretary of the Treasury, dated

APRIL 20, 1810.

The people of Madison county complain very much in having to pay so heavy a land tax this year: the money is to be collected by the 1st September; and, indeed, many of them are almost unable to pay it without inconveniences. The late decision of the Supreme Court has occasioned a great deal of clamor here about Cox's claim. I have assured the people to rest content; that they will keep the land they purchased, in defiance of any other claim; though some of the purchasers are yet uneasy. I went down to Madison county a few weeks ago, to satisfy them as far as I could, which had a good effect; notwithstanding all this, people are entering land in the office here almost every day; resting, very properly, their confidence in the General Government to make them good titles.

Extract of a letter from William Dickinson, Esq., Register of the Land Office at Nashville, to the Secretary of the Treasury, dated

JUNE 9, 1810.

I also enclose an extract of a letter from William H. Winston, Esq., clerk of the county court of Madison. The account he gives has been confirmed by several other letters to the Receiver of Public Moneys and myself.

It appears that many persons have recently purchased from Michael Harrison lands which

have been sold under the authority of the United States.

That some few who had purchased from the United States have, in order to quiet their claim, purchased also from Harrison.

That the purchasers from Harrison have given warning to purchasers from the United States, to give immediate possession; this, I am informed, has given much uneasiness.

Harrison is making considerable sales, and exhibits the late decision in the Supreme Court of the United States, as a confirmation of his title.

I am induced to believe the sales here will be very inconsiderable hereafter. The late decision in the Supreme Court of the United States, viz: *Fletcher vs. Peck*, has been industriously circulated by the claimants from the State of Georgia, and all possible means made use of to impress on the minds of the people an opinion that this decision completely confirms their title, in opposition to that of the United States.

I am induced to believe that few who have purchased at this office will favor Harrison's claim; but the number of residents without certificates or permission is considerable, and from that class he will draw his principal support.

I propose to attend the court in Madison on the 1st Monday in July. Whatever information I may procure, I shall immediately after my return forward on to you.

Extract of a letter from Wm. H. Winston, Esq., Clerk of Madison County Court, dated

MAY 26, 1810.

At this time, nothing is talked of here but Harrison's claim; a great number of persons have come in from various parts of Virginia and purchased from him, lands previously sold by the United States; and those claimants have ordered off the purchasers under the United States, which has occasioned much uneasiness.

Very little land will be sold, until a change in the public sentiment takes place relative to Harrison's claim, in favor of which I find a very considerable number of the people in this country.

Copy of a letter from the Secretary of the Treasury to the Secretary of War, dated.

JUNE 27, 1810.

SIR: I have the honor to enclose a letter from the Register of the Land Office of Madison county, showing the necessity of an early execution of the intended removal of intruders in that county.

There are two classes of persons, who, according to law, cannot be removed, viz: 1. Those who have purchased lands from the United States. 2. Those who, having signed the requisite declarations, have received written permissions to remain on the land. Although every individual of either description may show evidence, in writing, of his right to remain on the tract he occupies, I have directed copies to be prepared and transmitted to the War Department, of the returns both of sales and permissions. These will facilitate the necessary discrimination; and in order to prevent



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any mistake, William Dickson, Register of the Land Office, and residing at Nashville, will be instructed to furnish the officers commanding the detachment with a supplementary list of the sales subsequent to the returns last received, and with that of persons, if any, who may have obtained permissions, and not been returned to this office.

These observations apply exclusively to persons residing on those lands purchased both from the Cherokees and Chickasaws, which form Madison county. No sale has been made or permission been granted by the United States, to remain on any part of the lands lying west of Madison county, which were ceded by the Cherokees, but are not included in the Chickasaw purchase. I have the honor, &c.

Copy of a letter from the Secretary of the Treasury to the Secretary of War, dated

JULY 2, 1810.

SIR: In conformity with the intimation given in my letter of the 27th ultimo, I have now the honor of transmitting to you lists of those two classes of persons, who, according to law, cannot be removed from the public lands in Madison county. I have the honor, &c.

Extract of a letter from John Brahan, Esq., Register of the Land Office at Nashville, to the Secretary of the Treasury, dated

JUNE 4, 1810.

I am sorry to say that the claim of Zachariah Cox, in Madison county, is making a very considerable noise, and creating much confusion there; Colonel M. Harrison, who yet resides in Madison county, appears to be the principal and most active person in the business. I am informed, by respectable authority, that he is selling out his claim to lands there, and that he has been surveying the lands sold by him under the title of Cox, and, in some instances, the land sold by the United States at the late public sales in this place. If Colonel M. Harrison is permitted to remain in Madison county, it will be productive of great injury to the sales of lands under the United States, for people will thereby be induced to believe that his title to the land is good. It would be well if he could be removed out of the country. A number of people would yet enter land in Madison county, if they could receive positive assurance that they would hold the lands when the last instalment was paid. An assurance of this kind would have a good effect. I have the honor, &c.

P. S. If Government would remove every person out of Madison county, except such as have purchased of the United States, it would be desirable, and would check the growing evil there in its infancy.

Extract of a letter from John Brahan, Receiver of Public Moneys at Nashville, to the Secretary of the Treasury, dated

JUNE 5, 1810.

I wrote you yesterday that Colonel Michael Harrison, claiming under Zachariah Cox, &c., was again selling out lands in Madison county under that title. It is said a number of people have purchased of him, and are settling there: if they are not immediately removed, it may be troublesome to remove them after a while.

Copy of a letter from the Secretary of the Treasury to the Secretary of War, dated

JULY 5, 1810.

SIR: I have the honor to enclose copies of letters, received by this day's mail from the Receiver of Public Moneys at Nashville, in order that it may be submitted to the President, whether a more speedy removal of Michael Harrison and his adherents, than had been contemplated, might not be directed. I have the honor, &c.

Extract of a letter from William Dixon, Register of the Land Office at Nashville, to the Secretary of the Treasury, dated

JULY 30, 1810.

SIR: I herewith enclose the returns for the month of June; a few sales were made during that month; this is to be attributed to the impression made on the minds of the people, by the late decision of the Supreme Court of the United States. The impression is now nearly done away, and the minds of the people generally quieted as to their titles. The speculations also which I noticed in my last are nearly, perhaps entirely, at an end.

Extract of a letter from John Brahan, Esq. to the Secretary of the Treasury, dated

JULY 12, 1810.

I discover that Colonel Harrison's claim, under Cox, is becoming more silent, and people are again entering lands in the office, more briskly than was the case some weeks ago.

# PUBLIC ACTS OF CONGRESS;

PASSED AT THE THIRD SESSION OF THE ELEVENTH CONGRESS, BEGUN AND HELD  
AT THE CITY OF WASHINGTON, DECEMBER 3, 1810.

An Act to authorize the transportation of certain documents free of postage.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the members of Congress, the Secretary of the Senate, and Clerk of the House of Representatives, be and they are hereby respectively authorized to transmit, free of postage, the Message of the President of the United States of the 5th of December, one thousand eight hundred and ten, and the documents accompanying the same, printed by order of the Senate and by order of the House of Representatives, to any post office within the United States and Territories thereof, to which they may direct, any law to the contrary notwithstanding.

J. B. VARNUM,

*Speaker of the House of Representatives.*

GEO. CLINTON,

*Vice-President of the United States, and  
President of the Senate.*

Approved December 17, 1810.

JAMES MADISON.

An Act making an additional appropriation to supply a deficiency in the appropriation for the relief and protection of distressed American seamen, during the year one thousand eight hundred and ten.

*Be it enacted, &c.,* That, for supplying the deficiency in the appropriation for the relief and protection of distressed American seamen in foreign countries, during the year one thousand eight hundred and ten, the further sum of seventy-six thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, be and the same is hereby appropriated.

Approved, January 7, 1811.

An Act to continue in force for a further time the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

*Be it enacted, &c.,* That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act, and which was revived and continued in force for the time therein mentioned, by an act, entitled "An act to revive and continue in force for a fur-

ther time the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," passed on the twelfth day of January, one thousand eight hundred and ten, be and the same is hereby continued in force until the fourth day of March, one thousand eight hundred and twelve: *Provided, however,* That the additional duty laid by the said section shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

Approved, January 7, 1811.

An Act to fix the compensation of the additional Assistant Postmaster General.

*Be it enacted, &c.,* That the additional Assistant Postmaster General, authorized by the act "regulating the Post Office Establishment," shall receive an annual salary of sixteen hundred dollars, payable quarter-yearly at the Treasury of the United States, to be computed from the time at which he may have entered upon the execution of the duties of his office.

Approved, January 17, 1811.

An Act to authorize the Secretary of War to ascertain and settle, by the appointment of Commissioners, the exterior line of the public land at West Point, with the adjoining proprietor.

*Be it enacted, &c.,* That the Secretary of War shall be and he is hereby authorized to settle the exterior line of the public land at West Point, in the State of New York, now in dispute with Thomas North, the adjoining proprietor; and for that purpose to appoint three Commissioners to ascertain the same, whose determination, or a majority of them—the same being first approved by the Congress of the United States—shall be final and conclusive in the premises. And any such Commissioner shall be entitled to receive at and after the rate of four dollars per diem, for the time necessarily employed in executing said commission or appointment.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for the commissioners who may be appointed under this act, or either of them, to issue process, in nature of a writ of subpoena, for any witness that may be required on a hearing in the premises; and any person duly served with such process shall be bound to

appear and testify under the like penalty, and be liable to be proceeded against in the like manner, as is provided by law, in relation to any witness whose attendance is required in any court of the United States, to give testimony in any matter depending therein.

Approved, January 22, 1811.

An Act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and eleven.

*Be it enacted, &c.,* That, for defraying the expenses of the Military Establishment of the United States for the year one thousand eight hundred and eleven, for the Indian department, and for the expense of fortifications, arsenals, and armories, the following sums be, and the same hereby are respectively appropriated, that is to say:

For the pay of the Army of the United States, eight hundred and sixty-nine thousand nine hundred and sixty-eight dollars.

For forage, thirteen thousand seven hundred and fifty six-dollars.

For subsistence, six hundred and eighty-five thousand five hundred and thirty-two dollars and five cents.

For clothing, two hundred and ninety-three thousand eight hundred and four dollars.

For bounties and premiums, thirty thousand dollars.

For the medical and hospital department, fifty thousand dollars.

For camp-equipage, fuel, tools, and transportation, two hundred and seventy thousand dollars.

For ordnance, one hundred thousand dollars.

For fortifications, arsenals, magazines, and armories, including two thousand dollars for such a number of additional military storekeepers as may be required, two hundred and seventy-six thousand forty-nine dollars and seventy-six cents.

For purchasing maps, plans, books, and instruments, two thousand five hundred dollars.

For contingencies, fifty thousand dollars.

For the salary of clerks employed in the military agents' offices, and in the office of the inspector of the army, three thousand five hundred dollars.

For the Indian department, one hundred and forty-six thousand five hundred dollars.

*Sec. 2. And be it further enacted,* That the several sums, specifically appropriated by this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 6, 1811.

An Act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and eleven.

*Be it enacted, &c.,* That, for defraying the expenses of the navy of the United States for the year one thousand eight hundred and eleven, the following sums be, and the same are hereby respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, seven hundred and seventy-four thousand three hundred and ninety dollars.

For provisions, three hundred and eighty-five thousand, three hundred and thirty dollars.

For medicines, instruments, and hospital stores, thirty thousand dollars.

For repairs of vessels, two hundred and fifty thousand dollars.

For freight, store-rent, and all other contingencies, one hundred thousand dollars.

For pay and subsistence of the marine corps, including provisions for those on shore and forage for the staff, one hundred and thirty-eight thousand two hundred and fifty-six dollars and ninety cents.

For clothing for the same, thirty-seven thousand nine hundred dollars and ninety cents.

For military stores for the same, one thousand three hundred and ninety-six dollars and twenty-five cents.

For medicines, medical services, hospital stores, and all other expenses on account of the sick belonging to the marine corps, three thousand dollars.

For quartermasters' and barrackmasters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premiums for enlisting men, musical instruments, bounty to music, and other contingent expenses of the marine corps, fifteen thousand dollars.

For the expenses of navy yards, comprising docks and other improvements, pay of superintendents, storekeepers, clerks, and laborers, seventy-five thousand dollars.

For ordnance and small arms, sixty thousand dollars.

*Sec. 2. And be it further enacted,* That the several sums, specifically appropriated by this act, shall be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 7, 1811.

An Act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana.

*Be it enacted, &c.,* That the following allowances and compensations shall be made to the several officers appointed for the purpose of ascertaining the rights of persons claiming lands in the Territories of Orleans and Louisiana; which allowances and compensation shall be in full for all their services, including those rendered since their salaries respectively ceased, that is to say: To each of the commissioners, and to each of the clerks of the boards, fifty cents for each claim, duly filed according to law, which remained undecided on the first day of July, one thousand eight hundred and nine, and on which a decision has been made subsequent to that day, or shall hereafter be made, whether such decision be in favor or against the claim: which allowance of fifty cents shall be paid at the Treasury of the United States, from time to time, and on receipt of the transcripts of the decisions and of the re-

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ports of claims not finally confirmed, as the same may be transmitted by the boards respectively to the Secretary of the Treasury according to law. To each of the said commissioners and clerks a further allowance of five hundred dollars, to be paid after the completion of the business of each of the boards respectively, to the officers then in office. And to each of the translators, at the rate of six hundred dollars a year, and not to exceed in the whole for each the term of eighteen months: *Provided always*, That the above mentioned allowance of fifty cents for each claim decided upon, shall not be made to any of the commissioners who may be absent at the time of such decision; the attendance of each to be certified by the clerk, or by a majority of the board: *And provided also*, That no allowance shall be made to any agent heretofore employed by the Secretary of the Treasury, for any period of time subsequent to the time when such agent ceased to act, or when the board ceased to receive evidence.

SEC. 2. *And be it further enacted*, That the two principal deputy surveyors of the Territory of Orleans shall, and they are hereby authorized, in surveying and dividing such of the public lands in the said Territory, which are or may be authorized to be surveyed and divided, as are adjacent to any river, lake, creek, bayou, or water course, to vary the mode heretofore prescribed by law, so far as relates to the contents of tracts, and to the angles and boundary lines, and to lay out the same into tracts as far as practicable, of fifty-eight poles in front and four hundred and sixty-five poles in depth, of such shape, and bounded by such lines as the nature of the country will render practicable, and most convenient: *Provided, however*, That such deviations from the ordinary mode of surveying shall be made with the approbation of, and in conformity with, the general instructions which may be given to that effect by the surveyor of the public lands south of the State of Tennessee.

SEC. 3. *And be it further enacted*, That, for the disposal of the lands of the United States lying in the eastern land district of the Territory of Orleans, a land office shall be established at New Orleans; and that for the disposal of the lands of the United States lying south of Red river, in the western land district of the Territory of Orleans, a land office shall be established at Opelousas; and that for the disposal of the lands of the United States lying north of Red river, in the Territory of Orleans, a land office shall be established, which shall be kept at such place as the President of the United States may direct. The register of the western land district of the Territory of Orleans shall act as register of the land office of Opelousas, and as one of the commissioners for ascertaining the rights of persons claiming lands in any part of the said western land district. And for the land office north of the Red river, a register, and for each of the said three offices, a receiver of public moneys shall be appointed, who shall give security in the same manner, in the same sums, and whose compensa-

tions, emoluments, duties, and authority, shall in every respect be the same, in relation to the lands which shall be disposed of at their offices, as are or may be provided by law, in relation to the registers and receivers of public moneys in the several offices established for the disposal of the lands of the United States in the Territory of Mississippi.

SEC. 4. *And be it further enacted*, That the powers vested in the President of the United States by the eleventh section of the act, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the district of Louisiana,'" passed on the twenty-first day of April, one thousand eight hundred and six, in relation to the public lands lying in the western district of the Territory of Orleans, and all the other provisions made by the same section, for the sale of the said lands, and for obtaining patents for the same, shall be and the same are hereby in every respect extended to the public lands lying in the eastern district of the Territory of Orleans.

SEC. 5. *And be it further enacted*, That every person who, either by virtue of a French or Spanish grant, recognised by the laws of the United States, or under a claim confirmed by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, owns a tract of land bordering on any river, creek, bayou, or water-course, in the said Territory, and not exceeding in depth forty arpens, French measure, shall be entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of, his own tract, not exceeding forty arpens, French measure, in depth, nor in quantity of land, that which is contained in his own tract, at the same price, and on the same terms and conditions, as are, or may be provided by law for the other public lands in the said Territory. And the principal deputy surveyor of each district respectively, shall be and he is hereby authorized, under the superintendence of the surveyor of the public lands south of the State of Tennessee, to cause to be surveyed the tracts claimed by virtue of this section; and in all cases where, by reason of bends in the river, lake, creek, bayou, or water course, bordering on the tract, and of adjacent claims of a similar nature, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land applicable to that object between the several claimants, in such manner as to him will appear most equitable: *Provided, however*, That the right of pre-emption, granted by this section, shall not extend so far in depth, as to include lands fit for cultivation, bordering on another river, creek, bayou, or water course. And every person entitled to the benefit of this section shall, within three years after the date of this act, deliver to the register of the proper land office, a notice in writing, stating the situation and extent of the tract of land he wishes to purchase, and shall also make the payment and

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payments for the same, at the time and times which are or may be prescribed by law for the disposal of the other public lands in the said Territory: the time of his delivering the notice aforesaid, being considered as the date of the purchase. And if any such person shall fail to deliver such notice within the said period of three years, or to make such payment or payments at the time above-mentioned, his right of pre-emption shall cease and become void; and the land may thereafter be purchased by any other person in the same manner and on the same terms as are or may be provided by law for the sale of other public lands in the said Territory.

SEC. 6. *And be it further enacted*, That the land offices established by virtue of the fourth section of this act, shall be opened on the first day of January, one thousand eight hundred and twelve, for the sale of all the public lands, with the exception of section "number sixteen," of the salt springs, and land contiguous thereto, and of the tracts reserved for the support of seminaries of learning, as hereinafter provided, which shall have been previously surveyed and the surveys thereof returned according to law to the registers of the land offices respectively; and on the first day of February, one thousand eight hundred and twelve, for the sale of such of the public lands, which, from the nature of the country, cannot be surveyed in the ordinary way, and are embraced by the provisions of the third section of this act, as shall have, at least six weeks previous to the said first day of February, one thousand eight hundred and twelve, been advertised for sale by the surveyor of the public lands south of the State of Tennessee, with the approbation of the President of the United States. The public sales for the lands, subdivided into quarter sections in the ordinary way, shall be held for one calendar month, under the superintendence of the register and receiver of each land office respectively, and of either of the surveyors of public lands south of Tennessee, or of his principal deputy surveyor in the district, who shall each receive six dollars for each day's attendance on the same; and no tract of land shall be sold at said public sales, for a less price than that which is or may be prescribed by law for the sale of public lands in the Mississippi Territory. And, from and after the first day of February, one thousand eight hundred and twelve, any tract which has been thus offered for sale at public sale, and remains unsold, as well as any tract of land embraced by the provisions of the third section of this act, the sale of which is authorized by this section, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law, for the sale of the public lands in the Mississippi Territory. All the lands, sold [by] virtue of this section, shall in every other respect be sold on the same terms of payment and conditions, in the same manner, and under the same regulations, as are or may be prescribed by law, for the sale of public lands in the Mississippi Territory: *Provided, however*. That in case of an application being made at the same time, for the

purchase at private sale of the same tract of land by two or more persons, one of whom did actually inhabit and cultivate such tract of land at the time of passing this act, and still continues to inhabit and cultivate the same at the time of such application, the preference shall be given to the person thus inhabiting and cultivating such tract of land: *And provided, also*, That, till after the final decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time, and according to law, presented to the register of the land office, and filed in his office, for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, or which shall have been located by or for Major General Lafayette, according to law.

SEC. 7. *And be it further enacted*, That, in addition to the township already reserved for that purpose by law, in the western district of the Territory of Orleans, and which shall be located south of Red river, another entire township shall be located by the Secretary of the Treasury north of Red river, for the use of a seminary of learning, and also an entire township in the Territory of Louisiana, for the support of a seminary of learning within the said Territory.

SEC. 8. *And be it further enacted*, That the surveyor general shall cause such of the public lands in the Territory of Louisiana as the President of the United States shall direct, to be surveyed and divided in the same manner and under the same regulations and limitations as to expenses, as is provided by law in relation to the lands of the United States northwest of the river Ohio, and above the mouth of Kentucky river.

SEC. 9. *And be it further enacted*, That, for the disposal of the lands of the United States lying in the Territory of Louisiana, a land office shall be established, which shall be kept at such place as the President of the United States may direct; and a register and receiver of public moneys shall be appointed for said office, who shall give security in the same manner, in the same sums, and whose compensations, emoluments, duties, and authority, shall, in every respect, be the same, in relation to the lands which shall be disposed of at their office, as are or may be provided for by law, in relation to the register and receiver of public moneys in the several offices established for the disposal of the lands of the United States northwest of the river Ohio, and above the mouth of Kentucky river.

SEC. 10. *And be it further enacted*, That the President of the United States be and he is hereby authorized, whenever he shall think proper, to direct so much of the public lands lying in the Territory of Louisiana, as shall have been surveyed in conformity with the ninth section of this act, to be offered for sale. All such lands shall, with the exception of the section "number sixteen," which shall be reserved in each township for the support of schools within the same, with exception also of a tract reserved for the support

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of a seminary of learning, as provided for by the eighth section of this act, and with the exception also of the salt springs, and lead mines, and lands contiguous thereto, which, by the direction of the President of the United States, may be reserved for the future disposal of the said States, shall be offered for sale to the highest bidder, under the direction of the register of the land office, and the receiver of the public moneys, and of the principal deputy surveyor, and on such day or days as shall, by public proclamation of the President of the United States, be designated for that purpose. The sales shall remain open for three weeks, and no longer. The lands shall be sold for a price not less than that which has been or may be fixed by law for the public lands northwest of the river Ohio, and above the mouth of Kentucky river. And shall in every other respect be sold in tracts of the same size, on the same terms and conditions, as have been or may be by law provided for the lands sold in the State of Ohio. The superintendents of the said public sales shall each receive six dollars for each day's attendance on the said sales. All the lands which have been thus offered for sale, at public sale, remaining unsold at the closing of the public sales, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law for the sale of public lands in the State of Ohio: *Provided, however,* That, till after the decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time and according to law presented to the recorder of land titles in the district of Louisiana, and filed in his office, for the purpose of being investigated by the commissioners appointed for ascertaining the rights of persons claiming lands in the Territory of Louisiana. And patents shall be obtained for all lands sold in the Territory of Louisiana, in the same manner and on the same terms as is or may be provided, by law, for land sold in the State of Ohio.

SEC. 11. *And be it further enacted,* That the claim of the Corporation of the City of New Orleans, to the common adjacent thereto, and within six hundred yards from the fortifications of the same, as confirmed by the act, entitled "An act respecting claims to lands in the Territories of Orleans and Louisiana," shall be deemed valid, although the relinquishment of the said corporation to any claim beyond the said distance of six hundred yards, was not made till after the expiration of the period of six months, prescribed by the act last mentioned.

SEC. 12. *And be it further enacted,* That all navigable rivers and waters in the Territories of Orleans and Louisiana, shall be, and forever remain, public highways.

SEC. 13. *And be it further enacted* That a sum not exceeding forty thousand dollars be, and the same is hereby appropriated, for the purpose of carrying this act into effect, which sum shall be paid out of unappropriated moneys in the Treasury.

Approved, February 15, 1811.

An Act concerning the Bank of Alexandria.

*Be it enacted, &c.,* That the corporation heretofore created by the name and style of the President, Directors, and Company of the Bank of Alexandria, by an act of the Legislature of the Commonwealth of Virginia, passed in the year seventeen hundred and ninety-two, entitled "An act for establishing a bank in the town of Alexandria;" the capital stock of which said bank hath been increased to five hundred thousand dollars; and which said corporation was, by an act of the said Commonwealth, passed in the year eighteen hundred and one, continued until the fourth day of March, eighteen hundred and eleven, be, and the said corporation shall, by the name and style aforesaid, be further continued from the fourth day of March next, until the fourth day of March, eighteen hundred and twenty-one, subject to the regulations prescribed by and made in the manner provided by this act.

SEC. 2. *And be it further enacted,* That the said corporation shall, by the name and style of the President, Directors, and Company of the Bank of Alexandria, be capable in law to hold, have, and purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature, or quality soever; and the same to grant, demise, alien or dispose of; and, by the name aforesaid, may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of record within the United States; and may do and execute every other matter and thing by the name aforesaid, that they are authorized to do by virtue of this act: *Provided always,* That the lands, tenements, and hereditaments, which it shall be lawful for the president, directors, and company to hold, shall be only such as shall be requisite for their immediate accommodation, in relation to the convenient transacting their business, and such as shall have been *bona fide* mortgaged to them by way of security, or conveyed to them in satisfaction for debts previously contracted in the course of their dealings: *Provided also,* That the president and directors shall not purchase any goods, chattels, or effects, unless such as are sold by virtue of an execution, upon judgments obtained by them, except such articles as may be necessary for them in transacting the business of the bank; but it shall be lawful for them to receive and hold such securities, goods, chattels, and effects, by way of deposit for advances made by them to any person or persons, and, on failure of payment, the same to sell and dispose of at public sale.

SEC. 3. *And be it further enacted,* That the capital stock of the said bank shall consist of five hundred thousand dollars, in shares of two hundred dollars each.

SEC. 4. *And be it further enacted,* That every stockholder shall be entitled to vote by himself, his agent, or proxy, appointed under his hand and seal, at all elections, by virtue of this act; and shall have as many votes as he has shares, as far as ten shares, and not more than one vote for every

share thereafter; and every stockholder may sell and transfer his stock in the bank, or any part thereof, at his pleasure, not being less than one complete share or shares; the transfer to be made in the bank books, in the presence, and with the approbation of the proprietor or his lawful attorney, and the purchaser then to be entitled, to all the rights which the original proprietor enjoyed.

SEC. 5. *And be it further enacted*, That a meeting of the stockholders, at the town of Alexandria, shall be held annually, on the third Monday of January, in every year, during the continuance of this act; previous notice whereof shall be published in some newspaper, printed in Alexandria, Richmond, Winchester, or the City of Washington, for the space of four weeks successively; and the stockholders, assembled in consequence of such notice, shall choose by ballot, from among themselves, by a majority of votes of such as shall be present, or by proxy, nine directors, being citizens of the United States, for the term of one year thereafter; and on the same day annually, for and during the continuance of this act, a like election shall be made; and in case of refusal, death, resignation, disqualification or removal out of the District of Columbia, of any director, the remaining directors, at their next meeting thereafter, shall elect by ballot another person, qualified as aforesaid, in his place, for the residue of the year. The directors or any seven of them, shall, at their first meeting after every general election, elect by a majority of members present, by ballot, from among the stockholders, a president, who shall, whether a director or not, be thereupon entitled to all the powers and privileges of one; and if he was before a director another director shall be elected as aforesaid, so as to keep up the number of directors, prescribed by this act, exclusively of the President; and in case of refusal, death, resignation, or removal, out of the district aforesaid, of the president, the directors shall meet as soon as conveniently can be thereafter, and elect another person for president, in manner before directed.

SEC. 6. *And be it further enacted*, That there be a meeting of the directors quarterly, for the purpose of regulating the affairs of the bank, any five of whom shall make a board; and that the board have power to adjourn from time to time; and the president, or any three of the directors, may call a special meeting at any other time they may think necessary.

SEC. 7. *And be it further enacted*. That the board of directors shall determine the manner of doing business, and the rules and forms to be pursued; appoint and pay the various officers which they may find necessary; and dispose of the money and credit of the bank, at a rate not exceeding six per centum per annum; and make half yearly dividends of the profits, or of such part thereof as they may think prudent.

SEC. 8. *And be it further enacted*, That, in the appointment of cashier of the said bank, a majority of the votes of seven directors shall be necessary to a choice.

SEC. 9. *And be it further enacted*, That the

board shall, at every quarterly meeting, choose three directors, to inspect the business of the bank, for the ensuing three months; and the inspectors so chosen, or any two of them, shall, on the evening of every Saturday, examine into the state of the cash account, and all the notes received and issued, and see that those accounts are regularly balanced and transferred.

SEC. 10. *And be it further enacted*, That any director, officer, or other person holding any share or capital of the said stock, who shall commit any fraud or embezzlement, touching the money or property of the said bank, shall be liable to be prosecuted in the name of the United States, by indictment for the same, in any court of law in the district wherein the offence shall be committed; and, upon conviction thereof, shall, besides the remedy that may be had by action, in the name of the President, Directors, and Company of the Bank of Alexandria, for the fraud aforesaid, forfeit all his share and stock in the said bank to the company.

SEC. 11. *And be it further enacted*, That it shall not be lawful for the bank hereby incorporated to loan, by discount or otherwise, more than twice the amount of its capital stock actually paid in.

SEC. 12. *And be it further enacted*, That no stockholder or member of the said company shall be answerable for any loss, deficiencies, or failure of the capital stock of said bank, for any more or larger sum or sums of money whatsoever, than the amount of the stock, stocks, or shares, which shall appear by the books of the said company to belong to him at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: if the total amount of debts, which the said company shall at any time owe, whether by bond, bill, note, or other contract, shall exceed double the amount of capital stock of the said bank actually paid in, over and above the moneys actually deposited in the bank for safe-keeping, then in case of such excess, the directors under whose administration it shall happen, shall be liable for such excess, in their natural and private capacities; and an action or actions of debt may be brought against them, or any of them, their heirs, executors, or administrators, in any court of record within the United States, by any creditor or creditors of the said company, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or the lands, tenements, goods, and chattels of the same, from being liable for, and chargeable with, the said excess. Such of the directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may, respectively, exonerate themselves from being so liable by forthwith giving notice of the fact, and of his absence or dissent, to the Mayor of the town of Alexandria, for the time being, and to the stockholders, at a general meeting which he or they

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shall have power to call for that purpose. And in case the directors, by whose act such excess shall be occasioned, shall not have property sufficient to pay the amount of such excess, then each and every stockholder shall be liable in their private capacities for the deficiency, in proportion to their respective shares in said bank.

SEC. 13. *And be it further enacted*, That the president and directors shall not issue any note for a smaller sum than five dollars; and the president and directors shall, once in every year, lay before the Secretary of the Treasury an account, truly stating the situation of the bank, and its funds, if required.

SEC. 14. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of the stockholders at a general meeting. The directors shall make such compensation to the president, for his extraordinary services and attendance at the bank, as shall appear to them reasonable.

SEC. 15. *And be it further enacted*, That none but a stockholder, being a resident of the District of Columbia, shall be eligible as a president or director.

SEC. 16. *And be it further enacted*, That every cashier or treasurer, before he enters upon the duties of his office, shall give bond, with two or more securities, to the satisfaction of the directors, for his good behaviour in office.

SEC. 17. *And be it further enacted*, That in case it shall at any time happen, that an election of directors shall not be made on any day when, pursuant to this act, it ought to be made, it shall and may be lawful on any other day to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of the said president and directors.

SEC. 18. *And be it further enacted*, That process of law, served on the president for the time being, shall be deemed sufficient service, and shall avail in like manner, as if it had been served on all the directors, to the intent and purpose of making the said corporate company responsible.

SEC. 19. *And be it further enacted*, That whenever any note shall be given, containing express consent in writing, that it may be negotiable at the said bank, and the same shall be endorsed, if payment be refused or neglected to be made, at the time it shall have become due, the like proceedings are to be had out of court, and suit may be prosecuted against the drawer and endorser, jointly or separately, in like manner as if the same was a bill of exchange.

SEC. 20. *And be it further enacted*, That the said bank shall continue to transact its business of discount and deposit in the county of Alexandria, in the District of Columbia.

Approved, February 15, 1810.

An Act to incorporate the Bank of Washington.

*Be it enacted, &c.*, That, from and after the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven,

all those persons, their legal representatives or assigns, who on the first Monday of September, in the year of our Lord one thousand eight hundred and nine, at the City of Washington, subscribed certain articles of association, and formed a company or limited partnership, under the name and style of "The President and Directors of the Bank of Washington," and who, on the said fourth day of March, in the year eighteen hundred and eleven, shall hold any share of the joint stock or funds, created in pursuance of the said articles of association, and their successors, being stockholders as aforesaid, shall be, and they are hereby, incorporated, and made a body corporate and politic, by the name and style of "The President and Directors of the Bank of Washington;" and by that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record and any other place whatsoever; and by that name may have and hold, purchase, receive, possess, enjoy, and retain lands, rents, tenements, hereditaments, goods, chattels, and effects, of what nature, kind, or quality soever; and the same sell, grant, demise, alien, and dispose of; and by that name shall have succession, during the continuance of this act, and may make, have, and use a common seal, and the same may break, alter, and renew at pleasure; and shall have power to ordain, establish, and put in execution such by-laws, ordinances, and regulations as shall seem necessary and convenient for the government of the said corporation, not being contrary to law, nor to the constitution thereof; and, generally, to do and execute all acts necessary or proper for the objects of the said incorporation, subject to the rules, regulations, restrictions, limitations, and provisions herein described and declared.

SEC. 2. *And be it further enacted*, That the capital stock of the said bank shall consist of five hundred thousand dollars, money of the United States, to be divided into shares of twenty dollars each; of which, ten dollars on each share will, according to the articles of association aforesaid, have been paid before the said fourth day of March, eighteen hundred and eleven; and it shall be optional with any stockholder thereafter to fill up his or her share or shares, by the payment, at any one time, of the residue of the money due thereon, who shall thereupon be entitled to receive dividends in future, in proportion to the whole amount paid upon such share or shares: *Provided*, That the dividend or dividends, on such sums of money so paid, shall not commence until the first day of the month next ensuing such payment.

SEC. 3. *And be it further enacted*, That the said bank shall transact its business in the City of Washington.

SEC. 4. *And be it further enacted*, That the affairs of the bank shall be conducted by twelve directors and a president, whose place, if chosen from among their number, shall be supplied by that body. Six of the directors, with the president, shall form a board or quorum for transacting all the business of the company. In case of



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his sickness or necessary absence, his place may be supplied by any director, whom he, by writing under his hand, may nominate for that purpose; or, in case of his not making such nomination, the board may appoint a president to act during his absence. The president and directors who may be in office, under the said articles of association, on the said fourth day of March, eighteen hundred and eleven, shall continue in office under and by virtue of this act of incorporation, until others shall be duly chosen in their stead. No person shall be a director or president who is not a citizen of the United States and a stockholder; and a director ceasing to be a stockholder shall cease to be a director. And no person, a director of another bank, shall be a director of this bank. Every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be holden by the stockholders, in pursuance of this act, and shall have as many votes, in proportion to the stock he may hold, as follows: for one share, and not exceeding two shares, one vote each; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; and for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above that number, one vote. But no person or persons, bodies corporate, or otherwise, shall be entitled to more than fifty votes. But no stockholder shall be permitted to vote, who has not held his stock two calendar months prior to the day of election. All stockholders, living in the City of Washington, shall vote in the choice of directors by ballot in person; but every stockholder, living out of said city, may vote in person or by a written ballot by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or a notary public: a certificate whereof shall be made on said ballot by the judge, justice of the peace, or notary public, before whom such acknowledgment shall be made, and said ballot shall by him be sealed up, and addressed to the cashier of the bank; and being transmitted before the time of the election, shall be received and counted in the election. No person who is not a citizen of the United States shall be entitled to vote in any election of this corporation. *Provided nevertheless*, That this section may at any time hereafter be altered or amended by Congress, in such manner as they may see fit, so as to provide for an annual rotation of the directors.

SEC. 5. *And be it further enacted*, That a general meeting of the stockholders of the said bank shall be holden on the first Monday of January, in the year eighteen hundred and twelve, and on the first Monday of January in every year thereafter, at such place as the president and directors shall appoint, by giving four weeks notice in one or more of the newspapers of the City of Washington, for the purpose of electing directors for the ensuing year, who shall meet on the day succeeding their election, and shall immediately

proceed to choose a president; and the president and directors for the time being shall continue in office until others shall be duly elected in their places, and be organized by the assembling of a quorum, and the choice of a president. At all elections the persons having the greatest number of votes shall be deemed to be chosen. All elections shall be held under the superintendence of the president of the bank for the time being and four stockholders, not being at the time directors, appointed by the board of directors, any three of whom shall be judges thereof. They shall immediately thereafter notify the persons elected to meet the ensuing day at the bank, and shall make a return of the persons elected at their first meeting. Should two or more persons have an equal number of votes, the other individuals elected directors shall determine by ballot from among said persons, who shall be the director or directors. All elections shall be opened at ten o'clock in the forenoon, and closed at three in the afternoon.

SEC. 6. *And be it further enacted*, That the president and directors shall have full power to make, revise, alter, and annul all such rules, orders, by-laws, and regulations, for the government of the said corporation, and that of its officers, servants, and affairs, as they shall, from time to time, think expedient; and to use, employ, and dispose of the capital stock, funds and property of the said bank, for the interest and benefit of the stockholders, subject only to the restrictions herein contained; but the said bank shall not take, for discounting any bill or note, more than at the rate of six per cent. per annum, upon the amount due by such bill or note.

SEC. 7. *And be it further enacted*, That all promissory notes, bills of exchange, drafts, checks, and receipts, for the payment of money, made on behalf of the said bank, signed by the president, and countersigned or attested by the cashier, shall be obligatory upon the said body corporate, and shall possess the like qualities as to negotiability, and the holders thereof shall have the like actions thereupon, as if such promissory notes, bills of exchange, drafts, checks, or receipts, had been made by or on behalf of a natural person.

SEC. 8. *And be it further enacted*, That the books, papers, correspondence, and funds of the bank, shall at all times be subject to the inspection of the directors. And the said president and directors shall once in every year cause to be laid before the Secretary of the Treasury of the United States an account truly stating the situation of the bank and its funds.

SEC. 9. *And be it further enacted*, That the said president and directors shall have power to appoint a cashier, and all other officers and servants, for executing the business of the said bank, and to establish the compensation to be made to the president and all other officers and servants of the said bank respectively. But no compensation shall be given to a director for his services, except by a vote of the stockholders in general meeting.

SEC. 10. *And be it further enacted*, That the

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president and directors shall have power to call a general meeting of the stockholders, for purposes concerning the interests of the bank, giving at least six weeks notice in one or more of the newspapers of the City of Washington, specifying in such notice the object or objects of such meeting.

SEC. 11. *And be it further enacted*, That the shares of capital stock, at any time owned by any individual stockholders, shall be transferable only on the books of the bank, according to such rules as may, conformably to law, be established in that behalf by the president and directors; but all debts actually due and payable to the bank (days of grace for payment being past) by a stockholder, requesting a transfer, must be satisfied before such transfer shall be made, unless the president and directors shall direct to the contrary.

SEC. 12. *And be it further enacted*, That the dividends of the profits of the company, or so much of said profits as shall be deemed expedient and proper, shall be declared half yearly, in the first week in May and November, in each year; the amount of said dividend shall, from time to time, be determined by the president and directors, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock of the said company shall never be impaired by dividends.

SEC. 13. *And be it further enacted*, That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock thereof, which shall be actually paid in.

SEC. 14. *And be it further enacted*, That if the said directors shall at any time wilfully and knowingly make or declare any dividend, which shall impair the said capital stock, all the directors present at the making or declaring of said dividend, and consenting thereto, shall be liable in their individual capacities to the company for the amount or proportion of said capital stock so divided by the said directors; and each director, who shall be present at the making or declaring such dividend, shall be deemed to have consented thereto, unless he shall immediately enter, in writing, his dissent on the minutes of the proceedings of the board, and give notice thereof to the Secretary of the Treasury of the United States.

SEC. 15. *And be it further enacted*, That the bank shall in no case be owners of any ships or vessels, or directly or indirectly be concerned in trade, or the importation or exportation, purchase, or sale, of any goods, wares, or merchandise, whatever, except bills of exchange, bullion, stock of the United States, or of incorporated institutions, and such ships, vessels, goods, wares, or merchandise, as shall be truly pledged to them by way of security for debts due, owing or growing due to the said bank, or purchased by it to secure such debts.

SEC. 16. *And be it further enacted*, That the bank shall not purchase or hold any lands, tenements, or other real estates, other than what may

be necessary for the convenient transaction of its business, unless such lands, tenements, and real estates shall have been *bona fide* mortgaged to the bank by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of dealings, or purchased to secure debts, contracted with or due to the bank; and in every instance in which the bank may become the owners or claimants of lands, tenements, or real estates, the president and directors are empowered to sell or dispose of the same, in such manner as they may deem beneficial for the said bank.

SEC. 17. *And be it further enacted*, That if any vacancy shall at any time happen among the directors by death, resignation, or otherwise, the rest of the directors, for the time being, shall elect a director to fill the vacancy.

SEC. 18. *And be it further enacted*, That any number of stockholders, who shall be proprietors of not less than two thousand shares, may, for any purpose relative to the institution, at any time apply to the president and directors to call a general meeting of the stockholders, and if by them refused, the said number of stockholders, proprietors of not less than the number of shares aforesaid, shall have power to call a general meeting of the stockholders, giving at least sixty days notice in one or more of the public newspapers of the City of Washington, specifying in such notice the object or objects of such call.

SEC. 19. *And be it further enacted*, That the total amount of the debts, which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed twice the amount of their capital stock actually paid over and above the moneys then actually deposited in the bank for safe keeping. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same, in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court proper to try the same, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt said corporation, or the lands, tenements, goods, or chattels of the same from being also liable for and chargeable with said excess. Such of said directors who may have been absent when said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable by forthwith giving notice of the fact, and of their absence or dissent, to the Secretary of the Treasury of the United States, and to the stockholders, at a general meeting which they shall have a power to call for that purpose; and the body corporate, hereby created, and the capital stock thereof, shall be liable for all the debts and engagements contracted, or which, before or on the said fourth day of March, in the year eighteen hundred and eleven, shall be contracted by the company or co-partnership here-

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tofore created by the articles of association herein before mentioned, and which carried on the banking business under the name and style of "The President and Directors of the Bank of Washington;" and the creditors of the said copartnership shall have the like remedy by action, against the said body corporate, as they had or have, or may or can have, against the said co-partnership.

SEC. 20. *And be it further enacted*, That in case it should at any time happen, that an election of directors should not be made on any day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, at a meeting to be called, in such manner as shall be prescribed by the laws and ordinances of the said corporation.

SEC. 21. *And be it further enacted*, That this act shall, to all intents and purposes, be deemed and held a public act, and be and continue in force for the term of ten years, from and after the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven, and no longer.

Approved, February 15, 1811.

An Act to incorporate the subscribers to the Farmers' Bank of Alexandria.

*Be it enacted, &c.*, That the present subscribers to the Farmers' Bank of Alexandria, as well as those who shall hereafter become subscribers to the same, their successors and assigns, shall be, and they are hereby created a corporation and body politic by the name and style of the Farmers' Bank of Alexandria; and by that name and style shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, hereditaments, goods, chattels, and effects, of what kind, nature, or quality soever; and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer, and be answered, defend and be defended, in courts of record or any other place whatsoever, subject nevertheless to the rules, regulations, restrictions, limitations, and provisions hereinafter prescribed and declared.

SEC. 2. *And be it further enacted*, That the capital stock of said corporation may consist of five hundred thousand dollars, divided into shares of fifty dollars each; and subscriptions, towards filling up the remaining part of said stock not already subscribed, may be opened by the president and directors of the bank, at such times and places, and under such regulations, as they shall direct; and it shall be lawful for any person, a citizen of the United States, to subscribe; and it shall be the duty of the president and directors to give notice in two newspapers, or more, published in the District of Columbia, of the times and places of opening such subscriptions, at least thirty days previous thereto; and each of said subscriptions shall be kept open one day at least, and such further time as said directors may order.

SEC. 3. *And be it further enacted*, That the lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been conveyed to it, in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales on judgments, which shall have been obtained for such debts; nor shall this corporation directly or indirectly deal in or trade in anything, except bills of exchange, gold or silver bullion; or in the sale of goods, really and truly pledged for money lent, and not redeemed in due time; or of goods sold by virtue of an execution, on a judgment obtained by them.

SEC. 4. *And be it further enacted*, That, for the well ordering the affairs of the said corporation, there shall be thirteen directors, of whom there shall be an election on the first Monday in January, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by plurality of the votes actually given; and those who shall be duly chosen at any election shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the Monday of January next ensuing the time of such election, and until others shall be chosen. But the first election of directors under this act shall not take place until the first Monday in January, in the year one thousand eight hundred and twelve; and the said directors, at their first meeting after each election, shall choose one of their number as president. No person, a director of another bank, shall be a director of this bank: *Provided*, That in case it should at any time happen, that an election of directors should not be made upon any day, when pursuant to this act it ought to have been made, the corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day, within fifteen days thereafter, to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of said corporation.

SEC. 5. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The directors shall make such compensation to the president, for his extraordinary attendance at the bank, as to them shall appear reasonable.

SEC. 6. *And be it further enacted*, That the directors for the time being shall have power to appoint such officers and servants under them, as may be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall seem reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the affairs of the said corporation as shall be described, fixed, and determined by the laws, regulations, and ordinances of the same.

SEC. 7. *And be it further enacted*, That the pres-

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ident and directors shall determine the manner of doing business, and the rules and forms to be pursued, and dispose of the money and credit of the bank in such manner as shall seem to them best calculated to promote the interest of the proprietors.

SEC. 8. *And be it further enacted*, That stockholders shall vote at all elections for directors, by ballot, in person, except those who shall reside out of the town of Alexandria, who may vote either in person, or by a written ballot, by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or notary public; a certificate whereof shall be made on said ballot, by the said judge, justice of the peace, or notary public, before whom such acknowledgement shall be made, and the said ballot shall be sealed up and directed to the cashier of the bank; and being transmitted to said cashier, before the time of the election, shall be received and counted in the choice of directors. No share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election; and the number of votes to which each stockholder shall be entitled shall be in proportion to the number of shares he shall hold, as follows: For one share, and not exceeding two shares, one vote each; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above that number, one vote; but no person or persons, bodies corporate or otherwise, shall be entitled to more than fifty votes: *Provided*, That this section may at any time hereafter be altered or amended by Congress, in such manner as they may see fit, so as to provide for an annual rotation of directors.

SEC. 9. *And be it further enacted*, That one month previous to each election of directors, the cashier shall cause to be made out a correct list of all the stockholders, which shall be subject to the inspection of any stockholder.

SEC. 10. *And be it further enacted*, That no person shall be eligible to hold the office of president or director, who is not a citizen of the United States, and a *bona fide* stockholder.

SEC. 11. *And be it further enacted*, That a majority of the whole number of directors shall be necessary in the choice of a president and cashier; but three members, with the president, may constitute a board for transacting the ordinary business of the bank.

SEC. 12. *And be it further enacted*, That the president and directors shall, as soon as they may deem it expedient, declare a dividend of profits; and every half year thereafter, shall make and declare such dividends of profit as they may deem proper; but no dividend shall be declared, except by a majority of all the directors.

SEC. 13. *And be it further enacted*, That the president and directors shall keep a book in

which their proceedings at their meetings, as a board, shall be regularly recorded, and upon every question which may occur, the ayes and noes thereupon shall be noted, which record-book shall at all times be open to the inspection of any stockholder, not being a director, officer or servant of any other bank, who shall, six months previous to his application, be the proprietor of stock to the amount of three thousand dollars.

SEC. 14. *And be it further enacted*, That any number of stockholders, not less than twenty, owning together fifty thousand dollars of stock, shall be at liberty to call a meeting of the stockholders at any time, and may appoint three of their number as a committee to examine into the state and condition of the bank, and the manner in which its affairs have been conducted: *Provided*, That no member of such committee shall be a director, president, or other officer or servant of any other bank.

SEC. 15. *And be it further enacted*, That the president and cashier shall respectively give bond and security, and also take an oath, for the faithful discharge of their duties; the president in the sum of twenty thousand dollars, and the cashier in the sum of thirty thousand dollars; the other officers and servants shall also take an oath, and enter into bond and security, in such sums as the president and directors may prescribe.

SEC. 16. *And be it further enacted*, That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock thereof, which shall be actually paid in.

SEC. 17. *And be it further enacted*, That all bills, bonds, notes, and every contract or engagement, on behalf of the corporation, for the payment of money, shall be signed by the president and countersigned by the cashier; and the funds of the corporation shall in no case be liable for any contract or engagement, unless the same shall be signed and countersigned as aforesaid; and the president and directors shall not issue any note for a smaller sum than five dollars.

SEC. 18. *And be it further enacted*, That it shall not be lawful for the president and directors, to demand or receive a greater discount or interest than at the rate of one per cent. for sixty days, upon any loans or advances of money which they may make.

SEC. 19. *And be it further enacted*, That the shares of the capital stock shall be transferrable at any time, according to such rules as may be established by the president and directors; but no stock shall be transferred, the holder thereof being indebted to the bank, until such debt be satisfied, except the president and directors shall otherwise order it.

SEC. 20. *And be it further enacted*, That every stockholder, whether he be so by original subscription or by transfer, shall be considered as a member of this corporation, and, when he ceases to be a stockholder, he shall cease to be a member.

SEC. 21. *And be it further enacted*, That it shall be the duty of the president, or, in his absence, such one of the directors as they shall appoint, to supply his place for the time, to preside

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at the board of directors, to vote on all questions, to minute the proceedings of the board, to cause all the orders and resolutions of the board to be carried into effect, to sign all bonds, bills, notes or other engagements, which the board of directors may, from time to time, direct to be issued for the payment of money, and, generally to superintend the affairs, and to watch over the interest of this corporation.

SEC. 22. *And be it further enacted*, That if a vacancy shall, at any time, happen in the office of president, director, cashier, or any other officer or servant of the bank, by death, resignation, disqualification or otherwise, the same may be filled by a majority of the directors for the time being.

SEC. 23. *And be it further enacted*, That no standing or unlimited accommodation shall be granted.

SEC. 24. *And be it further enacted*, That if any stockholder shall fail to pay up the several instalments upon his subscription, as the same may become due, his dividends upon such instalments as he may have paid shall cease as to him, and remain to the use and benefit of the other members of the corporation.

SEC. 25. *And be it further enacted*, That if the president and directors shall, at any time, wilfully and knowingly make and declare any dividend which shall impair the capital stock, or shall wilfully and knowingly violate or infringe any of the foregoing articles of this corporation, all the directors present at the making or declaring such dividends, or violating or infracting such article or articles, and consenting thereto, shall be liable in their individual capacities to the corporation, for the amount or proportion of said capital stock so divided, and also for any injury or damage that may accrue to creditors, in consequence of any such violation or infraction as aforesaid; and each director who shall be present shall be deemed to have assented thereto, unless he shall cause his dissent to be entered upon record: *Provided*, That nothing herein contained shall be construed to exempt the corporation from any liability, to any person or persons, which otherwise the said corporation might incur.

SEC. 26. *And be it further enacted*, That the president and directors shall have power—a majority of their whole number concurring—to make, revise, alter, or annul all such rules, orders, or by-laws, for the government of the corporation, and that of their officers, servants and affairs, as they may, from time to time, think expedient, not inconsistent with law.

SEC. 27. *And be it further enacted*, That any number of stockholders not less than twenty, who together shall be proprietors of two thousand shares, may, for any purpose, relative to this corporation, at any time apply to the president and directors to call a general meeting of the stockholders, and if by them refused, the said number of stockholders, proprietors of not less than that number of shares, shall have power to call a general meeting of the stockholders, giving at least thirty days' notice in one newspaper printed within the town of Alexandria, and one printed within the city of

Washington, specifying in such notice the object or objects of such call.

SEC. 28. *And be it further enacted*, That the Secretary of the Treasury of the United States shall be (at least once in every year) furnished, from time to time, as he may require it, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand, and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements; *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

SEC. 29. *And be it further enacted*, That this corporation shall continue until the first day of January, in the year one thousand eight hundred and twenty-one; but nevertheless the proprietors of two-thirds of the capital stock of the company may, by their concurrent votes at a general meeting to be called for that purpose, dissolve the same at an earlier period: *Provided*, That notice of such meeting and its object shall be published in two or more newspapers, printed within the District of Columbia, for at least three months successively, previous to the time appointed for such meeting.

SEC. 30. *And be it further enacted*, That on the dissolution of this corporation, whenever the same shall be determined on as aforesaid, effectual measures shall be immediately taken by the president and directors, then in office, for closing all the concerns of the corporation, and for dividing the capital and profits which may remain, among the stockholders, in proportion to their respective interests.

SEC. 31. *And be it further enacted*, That this act shall not take effect until the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven, and shall, to all intents and purposes, be deemed and held a public act.

Approved, February 16, 1811.

An Act to incorporate the Bank of Potomac.

*Be it enacted, &c.*, That, from and after the fourth day of March, which will be in the year of our Lord one thousand eight hundred and eleven, all those who have or hereafter may become stockholders in the Bank of Potomac, their successors and assigns, shall be and they are hereby created and made a body politic, by the name and style of "The President, Directors and Company of the Bank of Potomac," and so shall continue until the fourth day of March, in the year of our Lord one thousand eight hundred and twenty-one, and no longer; and by that name shall have succession; and shall be and are hereby made able and capable in law to have, purchase and receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, de-

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mise, alien or dispose of; and by the name aforesaid may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of law or equity. And by the name aforesaid may do and execute every other matter and thing, that they are authorized to do by virtue of this act: *Provided always*, That the lands, tenements, and hereditaments, which it shall be lawful for the said president and directors to hold; shall be only such as shall be requisite for their immediate accommodation, in relation to the convenient transacting their business, and such as shall have been *bona fide* mortgaged to them by way of security, or conveyed to them in satisfaction of debts previously contracted in the course of their dealings: *Provided also*, That the said president and directors shall not purchase any goods, chattels or effects, unless such as are sold by virtue of an execution upon a judgment obtained by them, except such articles as may be necessary for them in transacting the business of the bank; but it shall be lawful for them to receive and hold such securities, goods, chattels and effects, by way of deposit for advances made by them to any person or persons, and on failure of payment, the same to sell and dispose of at public sale.

SEC. 2. *And be it further enacted*, That the capital of the said bank shall consist, as it now does, of the sum of five hundred thousand dollars, divided into shares of one hundred dollars each.

SEC. 3. *And be it further enacted*, That every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be holden by the stockholders in pursuance of this act, and shall have as many votes in proportion to the stock he may hold, as follows: For one share and not exceeding two shares, one vote each; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above that number, one vote. But no person or persons, bodies corporate or otherwise, shall be entitled to more than fifty votes. No share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election. And in the choice of directors, every stockholder shall vote in person, (except those who shall reside out of the town of Alexandria,) who may vote either in person or by a written ballot by him or her subscribed, with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or a notary public; a certificate whereof shall be made on said ballot by the said judge, justice of the peace or notary public, before whom such acknowledgment shall be made; and said ballot shall be by him sealed up, and addressed to the cashier of the bank, and being transmitted to said cashier before the time of the election of directors, said ballot shall be received and counted in the choice of directors. And every stockholder may sell and transfer his stock in the said

bank, or any part thereof, at his pleasure, not being less than one complete share or shares, the transfer being made in the bank books, in the presence and with the approbation of the proprietor or his lawful attorney.

SEC. 4. *And be it further enacted*, That an election shall be held in the town of Alexandria on the first Monday of November in each year, of which notice shall be given in one or more newspapers, printed in the town of Alexandria, four weeks at least, before said day of election. And the stockholders shall choose, by ballot, from among the stockholders, by a majority of votes, twelve directors, for the term of one year thereafter; and on resignation, disqualification or removal of any director, out of the county of Alexandria, in the District of Columbia, or out of the county of Fairfax, in the State of Virginia, the other directors, at their next meeting thereafter, shall elect by ballot another person, qualified as aforesaid, in his place, for the residue of the year. The directors shall, at the first meeting after every whole general election, elect by a majority of their number, by ballot from among their own number, a president, who shall be thereupon entitled to all the powers and privileges of one; and if he was before a director, another director shall be elected as aforesaid, so as to keep the number of directors, prescribed by this act, exclusive of the president, entire; and in case of the death, resignation or removal of the president, out of the county of Alexandria, or county of Fairfax aforesaid, or his refusal to accept his office, the directors shall meet as soon as conveniently can be thereafter, and elect another person for president, in the manner before directed; but the president and directors at present elected by the stockholders, shall continue to act, until their successors are chosen: *Provided*, That in case it should at any time happen, that an election of directors should not be made upon any day, when, pursuant to this act, it ought to have been made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day, within fifteen days thereafter, to hold and make an election of directors, in such manner, as shall have been regulated by the laws and ordinances of said corporation. *And provided nevertheless*, That this section may at any time hereafter be altered or amended by Congress, in such manner as they may see fit, so as to provide for an annual rotation of the directors.

SEC. 5. *And be it further enacted*, That there shall be a meeting of the directors quarterly, for the purpose of examining the affairs of the bank, any four of whom shall make a board; and the board shall have power to adjourn, from time to time; and the president, or any three of the directors, may call a special meeting at any other time that they may think proper.

SEC. 6. *And be it further enacted*, That the board of directors, by a majority of votes, shall make by-laws, determine the manner of doing business, and the rules and forms to be pursued; and dispose of the money and credit of the bank, for the interest and benefit of the stockholders;

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and are hereby authorized to receive for discounts, made at the said bank, at the rate, and not exceeding six per cent. per annum, and make at the expiration of each half year, a dividend of the profit, or such part thereof, as they may think prudent.

SEC. 7. *And be it further enacted*, That in appointing a cashier of the said bank, and all other officers, a majority of the whole directors shall be necessary to a choice.

SEC. 8. *And be it further enacted*, That any director, officer, or other person, holding any share or capital of the said bank stock, who shall commit any fraud or embezzlement, touching the money or property of said bank, shall be liable to be prosecuted, in the name of the United States, by indictment for the same; and upon conviction thereof, shall, besides the remedy that may be had by action, in the name of the President and Directors of the Bank of Potomac, for the fraud aforesaid, forfeit to the company all his share and stock in the said bank.

SEC. 9. *And be it further enacted*, That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock, which shall be actually paid in.

SEC. 10. *And be it further enacted*, That no stockholder, or member of said company, shall be answerable for any losses, deficiencies or failure of the capital stock of the said bank, for any more or larger sum or sums of money whatsoever, than the amount of the stock, stocks, or shares, which shall appear by the books of said company to belong to him at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: If the total amount of the debts which said company shall at any time owe, whether by bond, note, bill, or other contract, exceed twice the amount of the capital stock of the said bank, over and above the moneys actually deposited in the bank for safe-keeping, then, in case of such excess, the directors, under whose administration it shall happen, shall be liable for such excess in their natural and private capacities; and an action or actions of debt may be brought against them, or any of their heirs, executors or administrators, in any court of record within the District of Columbia, by any creditor or creditors, of said company, and may be prosecuted to judgment and execution, any condition or covenant, or agreement, to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or lands, tenements, goods or chattels of the same, from being also liable for, and chargeable with said excess: *Provided*, That such of the said directors, who may have been absent when said excess was so contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the mayor of the town of Alexandria, for the time being, and to the stockholders, at a general meeting, which he or they shall have power to call for that purpose. And

in case the directors, by whose act such excess shall be occasioned, shall not have property to pay the amount of such excess, then each and every stockholder, shall be liable in their private capacities for the deficiencies, in proportion to their respective shares in the said bank.

SEC. 11. *And be it further enacted*, That the said president and directors shall not issue any note for a smaller sum than five dollars; and the said president and directors shall, once in every year, cause to be laid before the Secretary of the Treasury of the United States an account, truly stating the situation of the bank and its funds.

SEC. 12. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of the stockholders, at a general meeting, but the directors shall make such compensation to the president, for his extraordinary services and attendance at the bank, as shall appear to them reasonable.

SEC. 13. *And be it further enacted*, That none but a stockholder, being a citizen of the United States, and a resident of the county of Alexandria, or county of Fairfax aforesaid, shall be eligible as a president or director.

SEC. 14. *And be it further enacted*, That a number of stockholders, not less than twenty, who together shall be proprietors of one thousand shares or upwards, shall have power to call a general meeting of the stockholders, for purposes relative to the institution, giving at least six weeks notice in one or more newspapers, printed in the town of Alexandria, and specifying in such notice the object or objects of such meeting.

SEC. 15. *And be it further enacted*, That this act shall, to all intents and purposes, be deemed and held a public act.

Approved, February 16, 1811.

An Act to incorporate the Union Bank of Georgetown.

*Be it enacted, &c.*, That, from and after the fourth day of March, one thousand eight hundred and eleven, all those persons, their legal representatives or assigns, who on the first Monday of November, in the year of our Lord one thousand eight hundred and nine, in Georgetown, District of Columbia, subscribed certain articles of association, and formed a company or limited partnership, under the name and style of the "President and Directors of the Union Bank of Georgetown," and who on the said fourth day of March, in the year eighteen hundred and eleven, shall hold any share of the joint stock or funds created in pursuance of the said articles of association, and their successors, being stockholders as aforesaid, shall be and they are hereby incorporated, and made a body corporate and politic, by the name and style of the "President and Directors of the Union Bank of Georgetown," and by that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record and any other place whatsoever; and by that name may have and hold, purchase, receive, possess, enjoy and retain lands

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rents, tenements, hereditaments, goods, chattels and effects, of what nature, kind or quality soever, and the same sell, grant, demise, alien and dispose of. And by that name, shall have, during the continuance of this act, succession; and may make, have and use a common seal, and the same may break, alter and renew at pleasure; and shall have power to ordain, establish and put in execution, such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation, not being contrary to law nor to the constitution thereof; and generally to do and execute all acts necessary or proper for the objects of said incorporation, subject to the rules, regulations, restrictions, limitations and provisions herein described and declared.

SEC. 2. *And be it further enacted,* That the capital stock of the said bank shall consist of five hundred thousand dollars, money of the United States, to be divided into shares of fifty dollars each; of which fifteen dollars on each share has been paid, according to the articles of association aforesaid; and it shall be optional with any stockholder hereafter to pay up the further sum of thirty-five dollars: *Provided,* That not more than fifty thousand dollars be paid, in any one year, unless the president and directors, by a rule or order, should authorize or permit a greater sum to be paid; the dividend or dividends on such sums of money so paid, shall not commence until the first day of the month next ensuing such payment.

SEC. 3. *And be it further enacted,* That the said bank shall transact its business in Georgetown.

SEC. 4. *And be it further enacted,* That the affairs of the said bank shall be conducted by twelve directors and a president, whose place, if chosen from among their number, shall be supplied by that body. Six of the directors, with the president, shall form a board or quorum for transacting all the business of the company, but the ordinary discounts may be done by the president and three directors. In case of his sickness or necessary absence, his place may be supplied by any director, whom he, by writing under his hand, may nominate for that purpose, or in case of his not making such nomination, the board may appoint a president to act during his absence. The president and directors who may be in office under the said articles of association on the said fourth day of March, eighteen hundred and eleven, shall continue in office under and by virtue of this act of incorporation, until others shall be duly chosen in their stead. No person shall be a director or president, who is not a citizen of the United States, and a stockholder; and a director ceasing to be a stockholder, shall cease to be a director; and no person, a director of another bank, shall be a director of this bank. Every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be held by the stockholders in pursuance of this act, and shall have as many votes, in proportion to the stock they may hold, as follows: for

every share as far as twenty, one vote for each share, and one vote for every two shares thereafter, as far as forty; but no person or persons, bodies corporate or otherwise, shall be entitled to more than one hundred and fifty votes; no stockholder shall be permitted to vote, who has not held his stock two calendar months, prior to the day of election. All stockholders living in Georgetown, shall vote in the choice of directors by ballot in person: but every stockholder living out of said town may vote in person or by a written ballot, by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of the peace, or a notary public; a certificate whereof shall be made on said ballot by the judge, justice of the peace, or notary public, before whom such acknowledgment shall be made: and said ballot shall by him be sealed up, and addressed to the cashier of the bank, and being transmitted before the time of the election, shall be received and counted in the election. No person who is not a citizen of the United States shall be entitled to vote in any election of this corporation: *Provided, nevertheless,* That this section may at any time hereafter be altered or amended by Congress, in such a manner as they may see fit, so as to provide for an annual rotation of the directors.

SEC. 5. *And be it further enacted,* That a general meeting of the stockholders of the said bank shall be holden on the first Monday in April, in the year eighteen hundred and eleven, and on the first Monday of April, in every year thereafter, at such place as the president and directors shall appoint, by giving four weeks notice in two or more of the newspapers of the District, for the purpose of electing directors for the ensuing year, who shall meet on the day succeeding their election, and shall immediately proceed to choose a president; and the president and directors for the time being, shall continue in office until others shall be duly elected in their places, and be organized by the assembling of a quorum, and the choice of a president. At all elections the persons having the greatest number of votes shall be deemed to be chosen. All elections shall be held under the superintendence of the president of the bank, for the time being, and four stockholders, not being at the time directors, appointed by the board of directors, any three of whom shall be judges thereof. They shall immediately thereafter notify the persons elected to meet the ensuing day at the bank, and shall make a return of the person elected, at their first meeting. Should two or more persons have an equal number of votes, the other individuals elected directors shall determine, by ballot from among said persons, who shall be the director or directors. All elections shall be opened at ten o'clock in the forenoon, and closed at three in the afternoon.

SEC. 6. *And be it further enacted,* That the president and directors shall have full power to make, revise, alter and annul all such rules, orders, by-laws and regulations, for the government of said corporation, and that of its officers, servants, and affairs, as they shall from time to time think



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expédient; and to use, employ, and dispose of the capital stock, funds and property of said bank, for the interest and benefit of the stockholders, subject only to the restrictions herein contained; but the said bank shall not take for discounting any bill or note, more than at the rate of six per cent. per annum, upon the amount due by such bill or note.

SEC. 7. *And be it further enacted,* That all promissory notes, bills of exchange, drafts, checks, and receipts, for the payment of money made on behalf of the said bank, signed by the president and countersigned and attested by the cashier, shall be obligatory upon the said body corporate, and shall possess the like qualities as to negotiability, and the holders thereof shall have the like actions thereupon, as if such promissory notes, bills of exchange, drafts, checks or receipts, had been made by or on behalf of a natural person.

SEC. 8. *And be it further enacted,* That the books, papers, correspondence, and funds of the bank shall at all times be subject to the inspection of the directors. And the said president and directors shall once in every year cause to be laid before the Secretary of the Treasury of the United States an account, truly stating the situation of the bank and its funds.

SEC. 9. *And be it further enacted,* That the said president and directors shall have power to appoint a cashier, and all other officers and servants, for executing the business of said bank, and to establish the compensation to be made to the president and all other officers and servants of the said bank, respectively; but no compensation shall be given to a director for his services, except by a vote of the stockholders in general meeting.

SEC. 10. *And be it further enacted,* That the president and directors shall have power to call a general meeting of the stockholders, for purposes concerning the interest of the bank, giving at least six weeks notice, in one or more of the newspapers of the District, specifying in such notice the object or objects of such meeting.

SEC. 11. *And be it further enacted,* That the shares of the capital stock, at any time owned by any individual stockholder, shall be transferable only on the books of the bank according to such rules, as may, conformably to law, be established in that behalf, by the president and directors; but all debts actually due and payable to the bank (days of grace for payment being passed) by a stockholder, requesting a transfer, must be satisfied, before such transfer shall be made, unless the president and directors shall direct to the contrary.

SEC. 12. *And be it further enacted,* That the dividends of the profits of the company, or so much of said profits as shall be deemed expedient and proper, shall be declared half yearly, in the first week in April and October, in each year; the amount of said dividend shall from time to time be determined by the president and directors, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock of the said company shall never be impaired by dividends.

SEC. 13. *And be it further enacted,* That if the

said directors shall at any time, wilfully and knowingly make or declare any dividend which shall impair the said capital stock, all the directors present at the making or declaring of said dividend, and consenting thereto, shall be liable in their individual capacities to the company, for the amount or proportion of said capital stock so divided by the said directors; and each director who shall be present at the making or declaring of such dividend, shall be deemed to have consented thereto, unless he shall immediately enter in writing his dissent, on the minutes of the proceedings of the board, and give notice thereof, to the Secretary of the Treasury of the United States.

SEC. 14. *And be it further enacted,* That the bank shall in no case be owners of any ships or vessels, directly or indirectly be concerned in trade, or the importation or exportation, purchase, or sale of any goods, wares, or merchandise whatever, except bills of exchange, bullion, stock of the United States, or of incorporated institutions, and such ships, vessels, goods, wares, or merchandise, as shall be truly pledged to them by way of security for debts due, owing or growing due to the said bank, or purchased by it to secure such debts.

SEC. 15. *And be it further enacted,* That the bank shall not purchase or hold any lands, tenements, or other real estates, other than what may be necessary for the convenient transaction of its business, unless such lands, tenements, and real estates, shall have been *bona fide* mortgaged to the bank by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of dealings, or purchased to secure debts contracted with or due to the bank; and in every instance in which the bank may become the owners or claimants of lands, tenements, or real estates, the president and directors are empowered to sell or dispose of the same, in such a manner as they may deem beneficial for the said bank.

SEC. 16. *And be it further enacted,* That if any vacancy shall at any time happen among the directors, by death, resignation, or otherwise, the rest of the directors for the time being, shall elect a director to fill the vacancy.

SEC. 17. *And be it further enacted,* That any number of stockholders, not less than twenty, who shall be proprietors of not less than four thousand shares, may for any purpose relative to the institution, at any time apply to the president and directors, to call a general meeting of the stockholders, and if by them refused, the said number of stockholders, proprietors of not less than the number of shares aforesaid, shall have power to call a general meeting of the stockholders, giving at least sixty days notice in two or more of the public newspapers in the District, specifying in such notice the object or objects of such call.

SEC. 18. *And be it further enacted,* That the said bank shall not at any time discount or loan a greater sum than double the amount of the capital stock, which shall be actually paid in.

SEC. 19. *And be it further enacted,* That the total amount of the debts which the said corporation shall at any time owe, whether by bond,

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bill, note, or other contract, shall not exceed twice the amount of their capital stock actually paid, over and above the moneys then actually deposited in the bank for safe-keeping. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them or any of them, their or any of their heirs, executors, or administrators, in any court proper to try the same, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for, and chargeable with said excess. Such of said directors who may have been absent when said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the Secretary of the Treasury of the United States, and to the stockholders at a general meeting, which they shall have power to call for that purpose; and the body corporate hereby created, and the capital stock thereof, shall be liable for all the debts and engagements contracted, or which, before or on the said fourth day of March, in the year eighteen hundred and eleven, shall be contracted by the company, or co-partnership heretofore created by the articles of association herein before mentioned, and which carried on the banking business under the name and style of "The President and Directors of the Union Bank of Georgetown;" and the creditors of the said co-partnership, shall have the like remedy by action, against the said body corporate, as they had or have, or may or can have against the said co-partnership.

Sec. 20. *And be it further enacted*, That in case it should at any time happen, that an election of directors should not be made, on any day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, at a meeting to be called in such manner as shall be prescribed by the laws and ordinances of the said corporation.

Sec. 21. *And be it further enacted*, That this act shall, to all intents and purposes, be deemed and held a public act, and be and continue in force for the term of ten years, from and after the fourth day of March, which will be in the year of our Lord, one thousand eight hundred eleven, and no longer.

Approved, February 18, 1811.

An Act making a further distribution of such laws of the United States, as respect the Public Lands.

*Be it enacted, &c.*, That the copies of the laws prepared and printed under the authority of "An

act providing for printing and distributing of such laws of the United States as respect the public lands," passed the twenty-seventh day of April, one thousand eight hundred and ten, not otherwise disposed of, shall be distributed in the manner following, that is to say: The President and Vice President of the United States, the members of the Senate and House of Representatives, the Secretaries of the State, Treasury, War, and Navy Departments, the Attorney General, the Comptroller, and Register of the Treasury, the Judges of the Supreme and District Courts of the United States, the Governors and Judges of the Territories, the Surveyor General of the United States, and the Surveyor of the lands of the United States south of Tennessee, shall each receive one copy; the clerks in each of the Departments of State, Treasury, and War, employed on land business, five copies; the Secretary of the Senate, to be placed on his table for the use of the Senate, five copies; the Clerk of the House of Representatives, to be placed on his table, for the use of the House of Representatives, ten copies; two hundred and fifty copies shall be placed in the Library, and remain there under the same regulations as the other laws of the United States; one hundred copies shall be deposited in the Treasury Department, for the use of the land boards and offices which may hereafter be established; and the remainder shall be placed in the Library, and each member of Congress hereafter elected, shall, so long as any remain, exclusive of the two hundred and fifty copies before mentioned, be entitled to one copy at the commencement of that session of Congress next succeeding his election.

Approved, February 18, 1811.

An Act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and for other purposes.

*Be it enacted, &c.*, That the inhabitants of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the thirtieth of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: beginning at the mouth of the river Sabine, thence by a line to be drawn along the middle of the said river, including all islands to the thirty-second degree of latitude, thence due north, to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and Lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence bounded by the said gulf to the place of beginning: including all islands within three leagues of the coast, be and they are hereby authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper, under the provisions and upon the conditions hereinafter mentioned.

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SEC. 2. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory, at least one year previous to the day of election, and shall have paid a territorial, county, or district, or parish tax; and all persons having in other respects the legal qualifications to vote for representatives in the General Assembly of the said Territory, be and they are hereby authorized to choose representatives to form a convention; who shall be apportioned amongst the several counties, districts, and parishes in the said Territory of Orleans, in such manner as the Legislature of the said Territory shall by law direct. The number of representatives shall not exceed sixty; and the elections for the representatives aforesaid shall take place on the third Monday in September next, and shall be conducted in the same manner as is now provided by the laws of the said Territory, for electing members for the House of Representatives.

SEC. 3. *And be it further enacted*, That the members of the convention, when duly elected, be and they are hereby authorized to meet at the city of New Orleans, on the first Monday of November next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be expected or not, at that time, to form a constitution and State government, for the people within the said Territory, and if it be determined to be expedient, then the convention shall in like manner declare, in behalf of the people of the said Territory, that it adopts the Constitution of the United States; whereupon the said convention shall be, and hereby is, authorized to form a constitution and State government, for the people of the said Territory: *Provided*, The constitution to be formed, in virtue of the authority herein given, shall be republican, and consistent with the Constitution of the United States; that it shall contain the fundamental principles of civil and religious liberty; that it shall secure to the citizen the trial by jury in all criminal cases, and the privilege of the writ of *habeas corpus*, conformable to the provisions of the Constitution of the United States; and that after the admission of the said Territory of Orleans as a State into the Union, the laws which such State may pass shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and the judicial and legislative written proceedings of the United States are now published and conducted: *And provided also*, That the said convention shall provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands, lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and moreover that each and every tract of land, sold by Congress, shall be and remain exempt from any tax, laid by

the order or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof; and that the lands, belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands the property of the United States; and that the river Mississippi and the navigable rivers and waters leading into the same or into the Gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost or toll therefor, imposed by the said State.

SEC. 4. *And be it further enacted*, That in case the convention shall declare its assent in behalf of the people of the said Territory, to the adoption of the Constitution of the United States, and shall form a constitution and State government for the people of the said Territory of Orleans, the said convention, as soon thereafter as may be, is hereby required to cause to be transmitted to Congress the instrument, by which its assent to the Constitution of the United States is thus given and declared, and also a true and attested copy of such constitution or frame of State government, as shall be formed and provided by said convention and if the same shall not be disapproved by Congress, at their next session, after the receipt thereof, the said State shall be admitted into the Union, upon the same footing with the original States.

SEC. 5. *And be it further enacted*, That five per centum of the net proceeds of the sales of the lands of the United States, after the first day of January, shall be applied to laying out and constructing public roads and levees in the said State, as the Legislature thereof may direct.

Approved, February 20, 1811.

An Act making appropriations for the support of Government for the year one thousand eight hundred and eleven.

*Be it enacted, &c.*, That, for the expenditure of the civil list in the present year, including the contingent expenses of the several departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the expense of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands; and for satisfying certain miscellaneous claims, the following sums be, and the same are hereby respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand four hundred and twenty-five dollars.

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For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, thirty-four thousand dollars.

For all contingent expenses of the library of Congress, and for the librarian's allowance for the year one thousand eight hundred and eleven, eight hundred dollars.

For repairing the roof and fitting up a room in the west side of the north wing of the Capitol for the library of Congress, six hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks and persons employed in that Department, including the sum of one thousand four hundred and seventy-eight dollars, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, fourteen thousand and thirty-eight dollars.

For the incidental and contingent expenses of the said Department, one thousand three hundred and fifty dollars.

For printing and distributing the laws of the third-session of the eleventh Congress, and printing the laws in newspapers, five thousand five hundred dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including the sum of one thousand seven hundred and fifty dollars for clerk hire, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, sixteen thousand seven hundred dollars.

For expense of translating foreign languages, allowance to the person employed in transmitting passports and sea-letters, and for stationery and printing in the office of the Secretary of the Treasury, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, including the sum of one thousand six hundred and thirty-nine dollars for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first April, one thousand eight hundred and six, fourteen thousand six hundred and sixteen dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, five hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty-one dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Auditor's office, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand fifty-two dollars and two cents.

For compensation to the messenger of the Register's office, for stamping and arranging ships' registers, ninety dollars.

For expense of stationery, printing, and all other incidental and contingent expenses in the Register's office, including books for the public stocks, and for the arrangement of the marine records, two thousand eight hundred dollars.

For fuel and other contingent and incidental expenses of the Treasury Department, four thousand dollars.

For the purchase of books, maps, and charts, for the use of the Treasury Department, four hundred dollars.

For compensation to a superintendent, employed to secure the buildings and records of the Treasury Department, during the year one thousand eight hundred and eleven, including the expense of two watchmen, the repairs of two fire engines, buckets, lanterns, and other incidental and contingent expenses, one thousand one hundred dollars.

For defraying the expense of stating and printing the public accounts for the year one thousand eight hundred and eleven, one thousand two hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars.

For expense of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to the clerks employed in the Paymaster's office, three thousand four hundred dollars.

For contingent expenses in the said office, two hundred dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent, and fuel for said office, including the sum of five hundred dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, five thousand one hundred dollars.

For compensation of additional clerks in the office of the Superintendent of Indian Trade, eight hundred dollars.

For compensation to the Secretary of the Navy, clerks and persons employed in his office, nine thousand eight hundred and ten dollars.

For expense of stationery, fuel, printing, and other contingent expenses in the said office, two thousand dollars.

For compensation to the Accountant of the Navy, clerks and persons employed in his office, ten thousand four hundred and ten dollars.

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For contingent expenses in the office of the Accountant of the Navy, one thousand dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, including the sum of two thousand seven hundred and forty-five dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, and the sum of eight hundred and fifty-seven dollars for deficiencies in the appropriation for the year one thousand eight hundred and ten, nineteen thousand seven hundred and fifty-seven dollars and seventy-eight cents.

For the expense of fuel, house rent for the messenger, candles, stationery, chests, &c., incident to the Postmaster General's office, two thousand five hundred dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the Commissioners of Loans, and for allowances to certain loan officers, in lieu of clerk hire, and to defray the authorized expense of the several loan offices, fifteen thousand dollars.

For compensation to the Surveyor General and his clerks, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of Tennessee, clerks employed in his office, and for stationery and other contingencies, three thousand seven hundred dollars.

For compensation to the officers of the Mint, viz:

The Director, two thousand dollars;

The Treasurer, one thousand two hundred dollars;

The Assayer, one thousand five hundred dollars;

The Chief Coiner, one thousand five hundred dollars;

The Melter and Refiner, one thousand five hundred dollars;

The Engraver, one thousand two hundred dollars;

One clerk at seven hundred dollars, and two clerks at five hundred dollars each.

For wages to the persons employed in melting, coining, carpenters', mill-wrights', and smiths' work, including the sum of one thousand dollars allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, and of six hundred dollars allowed to an assistant engraver, eight thousand dollars.

For repairs of furnaces, cost of rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the Mint, two thousand seven hundred and seventy-five dollars.

For an allowance for wastage in the gold and silver coinage, including a deficiency in the appropriation for the year one thousand eight hundred and ten, arising from the increase of the coinage for that and several antecedent years, six thousand eight hundred dollars.

For compensation to the Governor, Judges, and Secretary, of the Territory of Orleans, thirty thousand dollars.

For the expense of stationery and other contingent expenses of said Territory, including the sum

of one thousand dollars for a deficiency in the appropriation for the year one thousand eight hundred and ten, two thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Mississippi Territory, including the sum of one thousand one hundred and thirteen dollars and thirty-three cents, for a deficiency in the appropriation for the year one thousand eight hundred and ten, ten thousand one hundred and thirteen dollars and thirty-three cents.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Indiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Louisiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Illinois Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, two thousand dollars.

For additional compensation to the clerks in the several Departments of State, Treasury, War and Navy, and of the General Post Office, not exceeding for each department, respectively, fifteen per centum in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads and for other purposes," thirteen thousand two hundred and sixty-nine dollars and thirty-two cents.

For compensation granted by law to the Chief Justice, the Associate Judges and District Judges of the United States, including the Chief Justice and two Associate Judges for the District of Columbia; to the Attorney General, and to the District Judge of the Territory of Orleans, fifty-nine thousand four hundred dollars.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensation granted to the several Marshals for the Districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky,

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Ohio, East and West Tennessee, and Orleans, two thousand two hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures and penalties, and for defraying the expenses of prosecutions for offences against the United States, and for the safe keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late and present Government, nine hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and eleven, to the fourth of March one thousand eight hundred and twelve, ninety-eight thousand dollars ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys and public piers, stakeages of channels, bars and shoals, and certain contingent expenses, sixty-eight thousand nine hundred and sixty-five dollars and thirty-nine cents.

For erecting light-houses at the mouth of the Mississippi, and at or near the Pitch of Cape Look Out, in North Carolina, being the amount of an additional appropriation carried to the surplus fund, twenty thousand dollars.

For building a light-house on the south point of Cumberland Island, in Georgia, being the amount of a former appropriation carried to the surplus fund, four thousand dollars.

For erecting a light-house on the south point of Sapelo Island in Georgia, and for placing certain buoys and beacons on Dobay bar and Beach point, being the balance of former appropriations carried to the surplus fund, six thousand seven hundred and eighty-nine dollars and six cents.

For erecting a light-house on Point Judith, being the balance of a former appropriation carried to the surplus fund, one hundred and sixty-eight dollars and sixty-seven cents.

For erecting two lights on Lake Erie, viz: on or near Bird Island, and on or near Presque Isle, in addition to the appropriation heretofore made for that purpose, four thousand dollars.

For defraying the expense of surveying the public lands within the several Territories of the United States, one hundred thousand dollars.

For paying for the printing of new ships' registers, including the cost of paper, the balance of a former appropriation of one thousand one hundred and forty dollars for this object having been heretofore carried to the surplus fund, one thousand five hundred dollars.

For discharging the expense of the third enumeration of the inhabitants of the United States, and that of taking an account of their manufactures, one hundred and fifty thousand dollars.

For expenses of intercourse with foreign nations, forty-seven thousand dollars.

For expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the contingent expenses of Government, the balance of former appropriations for that ob-

ject having been carried to the surplus fund, twenty thousand dollars.

For the relief and protection of distressed American seamen, five thousand dollars.

For expenses of prosecuting claims and appeals in the courts of Great Britain in relation to captures of American vessels, and defending causes elsewhere, four thousand dollars.

For compensation allowed George W. Erving, as agent in receiving and paying awards of the Board of Commissioners, under the seventh article of the British treaty, estimated at two and a half per cent. on the amount of such awards as were actually received by him, twenty-two thousand three hundred and ninety-two dollars and sixty-seven cents.

For payment of the claim of Patrick Donnon, late surveyor of the county of Hardy, in Virginia, being his compensation under the act of Congress, passed May thirteenth, one thousand eight hundred, "to enlarge the power of the surveyors of the revenue," for valuing, recording, and adding to the tax lists sundry tracts of lands and dwelling-houses omitted by the assessors, there not being a sufficient balance due for direct tax from Virginia for satisfying this claim, seven hundred and twenty-eight dollars and eighty-five cents.

For payment of expenditures made by James Simmons, late collector of Charleston, from January first, one thousand seven hundred and ninety-nine, to December thirty-first, one thousand eight hundred and five, for the Navy Department, as admitted on settlement of his accounts at the Treasury, nine thousand three hundred and seventy-nine dollars and three cents.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, four thousand dollars.

For the payment of a balance due the estate of the late Major General Anthony Wayne, in conformity with the act passed at the present session, entitled "An act for the relief of the heirs of the late Major General Wayne," five thousand eight hundred and seventy dollars and thirty-four cents.

SEC. 2. *And be it further enacted,* That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury not otherwise appropriated.

Approved, February 20, 1811.

An Act to enable the Georgetown Potomac Bridge Company to levy money for the object of its incorporation.

*Be it enacted, &c.,* That the Directors of the Georgetown Potomac Bridge Company be, and they are hereby empowered to call a general meeting of the stockholders of said company, to be held at Georgetown, in the District of Columbia, by causing public notice to be given of the time and place of such meeting, in the National Intelligencer, and in one of the newspapers printed in

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each of the cities of New York, Philadelphia, and Baltimore, in four successive weeks, the last time at least thirty days before the day of holding the said general meeting. And if at such general meeting, the stockholders present, by themselves or legal representatives, shall determine to rebuild the bridge at or near the little falls of the river Potomac, (for the purpose of erecting which originally was the object of their incorporation,) the holders of two-thirds of the stocks represented at that meeting concurring, then it shall and may be lawful for the directors of said company, or any two of them, and they are hereby empowered, to assess upon and collect, from the stockholders of the said company, such sum and sums of money, as shall be necessary to pay its debts already incurred, and to rebuild, make and keep in repair the said bridge, together with the road leading thereto from Georgetown: *Provided*, That the whole amount of such assessments shall not exceed twenty-five dollars on each share in the stock of said company. And any such assessment and assessments, the said directors shall give public notice to the said stockholders, by advertising the same in the newspapers aforesaid; and the sum and sums which shall be so assessed, the said stockholders are hereby required to pay to the said directors, within sixty days after such notice; and on failure thereof, for the space of thirty days, after the expiration of the said sixty days, the said directors, or any two of them, are hereby authorized to sell the share or shares of any and every delinquent stockholder; every such sale to be made at public auction in Georgetown aforesaid, on the day specified in said advertisement: *Provided*, That no more shares shall be sold than shall be deemed necessary to levy the sum and sums of money which shall be assessed as aforesaid; and that the surplus, if any, arising on any such sales, shall by the directors aforesaid, be deposited in the Bank of Columbia, for the use of the owner or owners of the share or shares so sold. And the said directors, or any two of them, shall transfer on the books of the said company, to the purchaser or purchasers, the share or shares so sold, and if demanded give a certificate or certificates thereof, under their hands and seals, which shall secure to such purchaser, or purchasers, a valid title to the same.

Approved February 22, 1811.

An Act providing for the sale of a tract of land lying in the State of Tennessee, and a tract in the Indiana Territory.

*Be it enacted, &c.*, That the commissioners appointed by an act of the Legislature of the State of Tennessee, passed on the fourteenth day of November, one thousand eight hundred and nine, to fix on a site for the town of Pulaski, in the county of Giles, and State aforesaid, and their successors in office, be and they are hereby authorized, on producing a receipt from the receiver of public moneys for at least one-twentieth part of the purchase money, to enter with the register of the land office, established for the lands ceded

to the United States by the Cherokee and Chickasaw Indians, in the Mississippi Territory, a tract of land lying in a regular square, and containing six hundred and forty acres, which has or may be fixed on as a site for the town of Pulaski, as aforesaid, at the same price and on the same terms and conditions of payment as are provided with respect to the other public lands sold at private sale at the said office; and, on completing the payment of the purchase money, a patent shall be granted therefor to the said commissioners and their successors in office, in trust, for the use of the said county of Giles, for the purpose aforesaid.

SEC. 2. *And be it further enacted*, That the commissioners appointed by an act of the Legislature of the Indiana Territory, to fix on a proper site for the permanent seat of government for the said Territory, be, and they are hereby authorized, and their successors in office, so soon as the surveys under the authority of the United States shall have been made of the lands which they shall select, and on producing a receipt from the receiver of public moneys, for at least one-twentieth part of the purchase money, to enter with the register of the land office for the district, in which the land lies, any four quarter sections, of land adjoining to each other, which have not been reserved by any former act of Congress, and which the said commissioners may select and fix on as a site for the permanent seat of government for the said Territory, and payment shall be made therefor at the same price, and on the same terms and conditions, as are provided in respect to the other public lands sold at private sale in the same district; and on completing the payment of the purchase money, a patent shall be granted therefor to the said commissioners and their successors in office, in trust for the use of said Territory, for the purpose aforesaid.

Approved, February 25, 1811.

An Act providing for the removal of the land office established at Nashville, in the State of Tennessee, and Canton, in the State of Ohio; and to authorize the register and receiver of public moneys to superintend the public sales of land in the district east of Pearl river.

*Be it enacted, &c.*, That the President of the United States be, and he hereby is, authorized to remove the land office established for the sale of the public lands ceded to the United States by the Cherokee and Chickasaw Indians in the Mississippi Territory, from Nashville, to such place within the district for which it was established as he may judge most proper; and to remove the land office from Canton, in the State of Ohio, to some suitable place within the district for which it was established.

SEC. 2. *And be it further enacted*, That the public sales of the public lands, in the district east of Pearl river, in the Mississippi Territory, and, also, in the district of Kaskaskia, in the Illinois Territory, be conducted under the superintendence alone of the register and receiver of

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public moneys for the said districts, who are hereby authorized and empowered to superintend the same, in their respective districts, any law to the contrary notwithstanding; and they shall receive the compensation provided by law for the superintendents of public sales in the districts aforesaid.

SEC. 3. *And be it further enacted*, That, if any tract of the public lands which has been sold, or may hereafter be sold, in any State or Territory wherein a land office is, or may be established, and on which complete payment has not, or may not have been made, within the time prescribed by law for completing the same, and the tract having been advertised for sale, agreeably to law, it shall be lawful to offer the same for sale at public vendue, at the time and place of the sitting of the court for the county in which the land office is kept for the district to which the tract belongs, whether the court shall be denominated a court of quarter sessions, or by whatever other designation it may be known.

Approved, February 25, 1811.

*An Act establishing Navy Hospitals.*

*Be it enacted, &c.*, That the money hereafter collected by virtue of the act, entitled "An act in addition to 'An act for the relief of sick and disabled seamen,'" shall be paid to the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby appointed a board of commissioners, by the name and style of Commissioners of Navy Hospitals, which, together with the sum of fifty thousand dollars hereby appropriated out of the unexpended balance of the marine hospital fund, to be paid to the commissioners aforesaid, shall constitute a fund for navy hospitals.

SEC. 2. *And be it further enacted*, That all fines imposed on navy officers, seamen and marines, shall be paid to the Commissioners of Navy Hospitals.

SEC. 3. *And be it further enacted*, That the Commissioners of Navy Hospitals be, and they are hereby authorized and required to procure, at a suitable place or places, proper sites for navy hospitals, and if the necessary buildings are not procured with the site, to cause such to be erected, having due regard to economy, and giving preference to such plans as with most convenience and least cost will admit of subsequent additions, as the funds will permit, and circumstances require; and the commissioners are required, at one of the establishments, to provide a permanent asylum for disabled and decrepit navy officers, seamen and marines.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy be authorized and required to prepare the necessary rules and regulations for the government of the institution, and report the same to the next session of Congress.

SEC. 5. *And be it further enacted*, That, when any navy officer, seaman, or marine, shall be admitted into a navy hospital, that the institution shall be allowed one ration per day during his

continuance therein, to be deducted from the account of the United States with such officer, seaman, or marine; and, in like manner, when any officer, seaman, or marine, entitled to a pension, shall be admitted into a navy hospital, such pension, during his continuance therein, shall be paid to the Commissioners of the Navy Hospitals, and deducted from the account of such pensioner.

Approved, February 26, 1811.

*An Act in addition to the act, entitled "An act supplementary to the act concerning Consuls and Vice-Consuls," and for the further protection of American seamen.*

*Be it enacted, &c.*, That in all cases where distressed mariners and seamen of the United States have been transported from foreign ports where there was no consul, vice-consul, commercial agent, or vice-commercial agent, of the United States, to ports of the United States; and in all cases where they shall hereafter be so transported, there shall be allowed to the master or owner of each vessel, in which they shall or may have been transported, such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable to the Comptroller of the Treasury.

Approved, February 28, 1811.

*An Act supplementary to the act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."*

*Be it enacted, &c.*, That no vessel, owned wholly by a citizen or citizens of the United States, which shall have departed from a British port prior to the second day of February, one thousand eight hundred and eleven, and no merchandise, owned wholly by a citizen or citizens of the United States, imported in such vessel, shall be liable to seizure or forfeiture, on account of any infraction, or presumed infraction, of the provisions of the act to which this act is a supplement.

SEC. 2. *And be it further enacted*, That, in case Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, the President shall declare the fact by proclamation; and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification in any suit or prosecution which may be instituted under the fourth section of the act to which this act is a supplement. And the restrictions imposed, or which may be imposed, by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued.

SEC. 3. *And be it further enacted*, That, until the proclamation aforesaid shall have been issued, the several provisions of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall



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have full force, and be immediately carried into effect against Great Britain, her colonies, and dependencies: *Provided, however,* That any vessel or merchandise which may, in pursuance thereof, be seized, prior to the fact being ascertained, whether Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner above-mentioned, shall, nevertheless, be restored on application of the parties, on their giving bond, with approved sureties, to the United States, in a sum equal to the value thereof, to abide the decision of the proper court of the United States thereon; and any such bond shall be considered as satisfied, if Great Britain shall, on or before the second day of February, one thousand eight hundred and eleven, have revoked or modified her edicts in the manner above-mentioned: *Provided, also,* That nothing herein contained shall be construed to affect any ships or vessels wholly owned by a citizen or citizens of the United States, which had cleared out for the Cape of Good Hope, or for any port beyond the same, prior to the tenth day of November, one thousand eight hundred and ten.

Approved, March 2, 1811.

An Act for establishing trading houses with the Indian tribes.

*Be it enacted, &c.,* That it shall be lawful for the President of the United States to establish trading houses at such ports and places on the frontiers, or in the Indian country, on either or both sides of the Mississippi river, as he shall judge most convenient, for the purpose of carrying on a liberal trade with the several Indian nations, within the United States or their territories.

SEC. 2. *And be it further enacted,* That the President of the United States shall be authorized to appoint a Superintendent of Indian trade, whose duty it shall be to purchase and take charge of all goods intended for trade with the Indian nations, aforesaid, and to transmit the same to such places as he shall be directed by the President; and he shall take an oath or affirmation faithfully to execute the trust committed to him, and that he will not directly or indirectly be concerned or interested in any trade, commerce, or barter, restricted by this law, and except on the public account; and he shall also give bond, in the penal sum of twenty thousand dollars, with sufficient security, to be approved by the Secretary of the Treasury of the United States, truly and honestly to account for all money, goods, and other property whatever, which shall come into his hands, or for which, in good faith, he ought so to account, and to perform all the duties required of him by this act; and he shall render to the Secretary of the Treasury a quarter yearly account of all his receipts and expenditures of cash, purchases, and transmittals of goods for the Indian trade, to be settled and adjusted by the accounting officer of the Treasury, as other public accounts.

SEC. 3. *And be it further enacted,* That the Superintendent of Indian trade shall receive an annual salary of two thousand dollars, payable quarter yearly, at the Treasury of the United States.

SEC. 4. *And be it further enacted,* That the President of the United States shall be authorized to appoint an agent, and, when he shall deem it proper, an assistant agent, for each trading-house establishment, established under the provisions of this act; and every such agent and assistant agent shall give bond, with sufficient security, in such sum as the President shall direct, truly and honestly to account for all the money, goods, and other property whatever, which shall come into his hands, and for which he ought so to account; and to perform all the duties required of him by this act; and shall take an oath or affirmation faithfully to execute the trust committed to him; and that he will not directly or indirectly be concerned or interested in any trade, commerce, or barter, but on the public account.

SEC. 5. *And be it further enacted,* That it shall be the duty of each of the said agents to receive, from the Superintendent of Indian trade, and dispose of in trade with the Indian nations aforesaid, such goods as may be transmitted to him by the superintendent, to be received and disposed of as aforesaid, according to the rules and orders which the President of the United States shall prescribe; and he shall render an account, quarter yearly, to the Superintendent of Indian trade, of all money, goods, and other property whatsoever, which shall be transmitted to him, or which shall come into his hands, or for which, in good faith, he ought to account; and he shall transmit duplicates of his accounts to the Secretary of the Treasury of the United States.

SEC. 6. *And be it further enacted,* That the Superintendent of Indian trade, the agents, or their clerks, or other persons employed by them, shall not be, directly or indirectly, concerned or interested in carrying on trade or commerce in any of the goods or articles bought for, or supplied to, or received from the Indians, or shall be owner, in whole or in part, of any sea vessel, or shall take or apply to his or their use any gain or emolument for negotiating or transacting any business in the Indian department, other than what shall be allowed by law; and that the said agents, assistant agents, or any persons employed by them, shall not be directly or indirectly concerned or interested in carrying on the business of trade or commerce, on their own or any other than the public account, or take or apply to his or their use any emolument or gain for negotiating any such business, during their appointment, agency, or employment, respectively, other than provided by this act, or excepting for and on account of the United States; and if any such persons shall offend against any of the prohibitions aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit to the United States a sum not exceeding one thousand dollars, and shall be removed from such office, agency, or employment, and forever thereafter be incapable

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of holding any office under the United States: *Provided*, That if any person, other than a public prosecutor, shall give information of any such offence upon which a prosecution and conviction shall be had; one-half of the aforesaid penalty, when recovered, shall be for the use of the person giving such information: *And provided, also*, That if such misdemeanor be committed by the Superintendent of Indian trade, or by any agent or assistant agent, it shall be deemed a breach of the condition of his bond, and the penalty thereof may be recovered in any court having competent jurisdiction of the same.

SEC. 7. *And be it further enacted*, That the prices of goods supplied to, and to be paid for by, the Indians, shall be regulated in such manner, that the capital stock furnished by the United States shall not be diminished.

SEC. 8. *And be it further enacted*, That if any agent or agents, their clerks, or other person employed by them, shall purchase or receive from any Indian, in the way of trade or barter, any gun, or other article commonly used in hunting, any instrument of husbandry or cooking utensil, of the kind usually obtained by Indians in their intercourse with white people, or any article of clothing, excepting skins or furs, he or they shall, respectively, forfeit the sum of one hundred dollars for each offence, to be recovered by action of debt, in the name and to the use of the United States, in any court having jurisdiction in like cases: *Provided*, That no suit shall be commenced, except in the State or Territory within which the cause of action shall have arisen, or in which the defendant may reside; and it shall be the duty of the Superintendent of Indian trade, or of the Superintendents of Indian affairs, and their deputies, respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, to prosecute the offender without delay.

SEC. 9. *And be it further enacted*, That the goods requisite for annuities to the Indian nations within the United States, and the Territories thereof, and for treaties with them, and for presents to be made them at the Seat of Government, or elsewhere, shall henceforward be purchased and transmitted to the proper posts and places, by the Superintendent of Indian trade, upon orders from the Department of War, and the accounts therefor shall be rendered to the War Department.

SEC. 10. *And be it further enacted*, That, during the continuance of this act, the annual sum of two thousand dollars for the payment of the salary of the Superintendent of Indian trade, and the annual sum of two thousand five hundred dollars for the payment of the clerks in his office, (including the sum of eight hundred dollars, allowed for an additional clerk by the act passed on the twenty-sixth day of February, one thousand eight hundred and ten,) are hereby appropriated, to be paid out of any money in the Treasury of the United States not otherwise appropriated.

SEC. 11. *And be it further enacted*, That, during the continuance of this act, the President of the United States be, and he is hereby, authorized to

draw annually from the Treasury of the United States a sum not exceeding fourteen thousand seven hundred and fifty dollars, to be applied under his direction to the payment of the agents, assistant agents, and clerks at the trading houses; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day; which rations, or such payments as may be made in lieu thereof, by the order of the President, shall be charged to the trading fund; and the President shall cause an annual report to be made to Congress of how much of the sum so authorized has been drawn, and in what manner the same has been applied.

SEC. 12. *And be it further enacted*, That the sum of two hundred and sixty thousand dollars, appropriated by the tenth section of the act, entitled "An act for establishing trading houses with the Indian tribes," approved twenty-first April, one thousand eight hundred and four, and the sum of forty thousand dollars, appropriated by the act, entitled "An act supplemental to the act, entitled 'An act for establishing trading houses with the Indian tribes,'" approved third March, one thousand eight hundred and nine, shall be and remain a fund for the purpose of carrying on trade and intercourse with the Indian nations, in the manner provided by this act, exclusive of the salary of the Superintendent of Indian trade, and of the allowances to agents, assistant agents, and clerks.

SEC. 13. *And be it further enacted*, That it shall be the duty of said Superintendent of Indian trade, under the direction of the President of the United States, and upon such terms and conditions as he shall prescribe, to cause the furs and peltry, and other articles acquired in trade with the Indian nations, to be sold at public auction, in different parts of the United States, or otherwise disposed of, as may be deemed most advantageous to the United States.

SEC. 14. *And be it further enacted*, That if the President should deem it expedient to establish, under the authority of this act, trading houses, in addition to the number now in operation, for the purposes of carrying on a trade with the Indian tribes within the United States, or their Territories, the expenses for each trading house so established shall not exceed the following sums of money, in addition to the appropriations already made by this act, viz: For the principal agent, an annual sum, not exceeding one thousand dollars; for an assistant agent, if necessary, an annual sum not exceeding five hundred dollars; to be drawn by the President out of any moneys in the Treasury not otherwise appropriated.

SEC. 15. *And be it further enacted*, That, from and after the first day of April next, an act, entitled "An act for establishing trading houses with the Indian tribes," approved on the twenty-first of April, one thousand eight hundred and six, and an act, entitled "An act supplemental to the act, entitled 'An act for establishing trading houses with the Indian tribes,'" approved on the fourth day of March, one thousand eight hundred and nine, shall be, and the same are hereby, repealed:

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*Provided*, That nothing herein contained shall be construed to exonerate any person who shall not have performed the duty, or who shall have violated any of the prohibitions contained in the said acts, from suits or prosecutions, but as to all bonds, contracts, debts, demands, rights, penalties, punishments, which have been made, have arisen, or have incurred, or which shall be made, arise, or be incurred, previous to the first day of April next, the said acts shall have the same force and effect as though this act had not been passed: *Provided, likewise*, That the Superintendent of Indian trade, the agents, assistant agents, and other persons employed under the aforesaid acts, shall continue to hold their several offices, appointments, and trusts, until otherwise removed, anything herein contained that might be construed to the contrary notwithstanding; and also the bonds, which they or either of them have given, or may give, for the faithful execution of their several duties and offices, shall continue to have the same force and effect, to all intents and purposes, as though this act had not been passed.

SEC. 16. *And be it further enacted*, That this act shall be in force, from and after the first day of April next, for the term of three years, and from thence to the end of the session of Congress next thereafter, and no longer.

Approved, March 2, 1811.

An Act to establish the districts of Mumphreymagog, of Oswegatchie, and of the White Mountains.

*Be it enacted, &c.*, That, from and after the first day of April next, all that part of the State of Vermont, lying east of Lake Mumphreymagog, and including, also, all such shores and waters of the said lake as lie within the said State, shall constitute a district, to be called the district of Mumphreymagog, of which Derby shall be the sole port of entry; and a collector for the said district shall be appointed to reside at the said port of entry.

SEC. 2. *And be it further enacted*, That, from and after the first day of April next, all the shores and waters of the river St. Lawrence, which lie in the State of New York, east of the western boundary of the county of St. Lawrence, and west of the western boundary of the collection district of Champlain, shall constitute a district to be called the district of Oswegatchie, of which Ogdenburg shall be the sole port of entry, and a collector for the said district shall be appointed to reside at Ogdenburg. And the President of the United States is authorized to establish another place in the said district to be a port of delivery only; and a surveyor shall be appointed to reside at such port of delivery.

SEC. 3. *And be it further enacted*, That all that part of the State of New Hampshire which lies adjacent to the northern boundary of the United States, and north of forty-four degrees thirty minutes north latitude, shall, from and after the first day of April next, constitute a district to be called the district of "White Mountains;" the President of the United States is authorized to

establish a place in the said district to be the port of entry; and a collector shall be appointed to reside at the said place.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to alter the place which had heretofore been designated to be the port of entry for the district of Vermont, and to establish another place to be such port of entry.

SEC. 5. *And be it further enacted*, That, from and after the first day of April next, the collectors of the district established by this act, and the collectors of the districts of Vermont, Champlain, and Sackett's Harbor, and Oswego, shall each receive, in addition to the fees and commissions allowed by law, an annual salary of five hundred dollars a year; and the annual salary heretofore allowed to the collectors of the three last mentioned districts shall, from and after the said first day of April, be discontinued; and the surveyor to be appointed for the district of Oswegatchie shall receive, in addition to the fees allowed by law, a salary of one hundred and fifty dollars a year.

Approved, March 2, 1811.

An Act, authorizing a loan of money, for a sum not exceeding five millions of dollars.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, empowered to borrow, on the credit of the United States, a sum not exceeding five million of dollars, at a rate of interest, payable quarter-yearly, not exceeding six per centum per annum, and reimbursable at the pleasure of the United States, or at such periods as may be stipulated by contract, not exceeding six years from the first day of January next; to be applied, in addition to the moneys now in the Treasury, or which may be received therein from other sources during the present year, to defray any of the public expenses which are or may be authorized by law. The stock thereby created shall be transferable in the same manner as is provided by law for the transfer of the funded debt: *And it is further hereby declared*, That it shall be deemed a good execution of the said power to borrow, for the Secretary of the Treasury, with the approbation of the President of the United States, to cause to be constituted certificates of stock, signed by the Register of the Treasury, or by a commissioner of loans for the sum to be borrowed, or for any part thereof, bearing an interest of six per cent. per annum, transferable and reimbursable as aforesaid; and to cause the said certificates of stock to be sold at auction, after having given thirty days public notice of the time and place of such sale: *Provided*, That no such stock be sold under par.

SEC. 2. *And be it further enacted*, That so much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, is hereby pledged and appropriated for the payment of the interest, and for the reim-

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bursment of the principal of the stock, which may be created by virtue of this act. It shall accordingly be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid out of the said fund yearly, and every year, such sum and sums as may be annually wanted to discharge the interest accruing on the said stock, and to reimburse the principal, as the same shall become due, and may be discharged in conformity with the terms of the loan; and they are further authorized to apply, from time to time, such sum or sums out of said fund, as they may think proper, towards redeeming by purchase, and at a price not above par, the principal of the said stock, or any part thereof. And the faith of the United States is hereby pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds hereby appropriated for paying the said interest and principal sums, or any of them, in manner aforesaid.

Approved, March 2, 1811.

An Act to annex a part of the State of New Jersey to the collection district of New York; to remove the office of Collector of Niagara to Lewistown; to make Cape St. Vincent, in the district of Sackett's Harbor, a port of delivery; and out of the districts of Miami and Mississippi to make two new districts, to be called the districts of Sandusky and Teche; and for other purposes.

*Be it enacted, &c.,* That all that part of the State of New Jersey, which lies north and east of Elizabethtown and Staten Island, be, and the same is hereby, annexed to the district of New York; that an assistant collector, to be appointed and commissioned by the President of the United States, shall reside at the town of Jersey, who shall have power to enter and clear vessels in like manner as the collector of New York is authorized by law to do; but such assistant collector shall nevertheless act in conformity to such instructions and regulations as he shall from time to time receive from the collector of New York; and that the said assistant collector shall receive for his annual salary one thousand dollars, in full for all services to be by him performed, and in lieu of commissions and fees.

SEC. 2. *And be it further enacted,* That all that part of the Miami district, lying east of the western cape of Sandusky bay, shall be a district, to be called the district of Sandusky; and the President is hereby authorized to designate such place, in the district of Sandusky, as he shall judge expedient, to be the port of entry of the said district; and a collector for the said district shall be appointed, to reside at the port of entry.

SEC. 3. *And be it further enacted,* That Cape Vincent, in the district of Sackett's Harbor, shall, from and after the thirty-first day of May next, be a port of delivery only; and a surveyor shall be appointed, to reside at the said port.

SEC. 4. *And be it further enacted,* That the collector's office shall, after the thirty-first day of May next, be removed from Fort Niagara to Lewistown, which last mentioned place shall in

future be the residence of the collector; and also, that the office of the collector of the customs, for the district of Buffalo creek, shall be kept at such place or places in the town of Buffalo, as the President of the United States shall designate.

SEC. 5. *And be it further enacted,* That ships or vessels, arriving from and after the first day of May next from the Cape of Good Hope, or from any place beyond the same, shall be admitted to make entry at Plymouth and Nantucket, ports of entry in the State of Massachusetts.

SEC. 6. *And be it further enacted,* That, from and after the first day of May next, Bangor, in the district of Penobscot, in the State of Massachusetts, be, and the same is hereby made, a port of delivery, to be annexed to the district of Penobscot; and that a surveyor be appointed, to reside at the said port of delivery.

SEC. 7. *And be it further enacted,* That all that part of the collection district of Mississippi which includes the waters of the river Teche, and all the shores, bays, and rivers, west of the Atchafalaya, be, and the same is hereby established as a new district, to be called the district of Teche; that Nova Iberia be the port of entry for the same; and that a collector be appointed, to reside at the port of entry.

SEC. 8. *And be it further enacted,* That a surveyor be appointed to reside at or near the mouth of the Rappahannock river, at such place as the President of the United States shall designate.

SEC. 9. *And be it further enacted,* That the several collectors and surveyors who may be appointed by virtue of this act, and whose salaries are not fixed by a preceding section, shall, in addition to the fees and commissions authorized by law, receive respectively the same annual salary which, by law, is allowed to the collectors and surveyors of the districts bordering on Lake Erie.

Approved, March 2, 1811.

An Act to extend the time for completing the Third Census, or enumeration of the inhabitants of the United States.

*Be it enacted, &c.,* That the assistants in the several States and Territories for which returns have not been completed, have until the first Monday of June next, to make their returns to the marshals and secretaries; and that the marshals and secretaries have until the first Monday of July next, to make and file their returns in the office of the Secretary of State, any law to the contrary notwithstanding.

Approved, March 2, 1811.

An Act declaring the consent of Congress to an act of the State of Georgia, passed the twelfth of December, one thousand eight hundred and four, "establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's."

*Be it enacted, &c.,* That the consent of Congress be and hereby is granted and declared to the operation of an act of the Legislature of Georgia,

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passed the twelfth of December, one thousand eight hundred and four, establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's.

SEC. 2. *And be it further enacted*, That this act shall be in force for one year, and no longer.

Approved, March 2, 1811.

An Act to erect a light-house on Boon island in the State of Massachusetts, to place buoys off Cape Fear river, and to erect a beacon at New Inlet, in the State of North Carolina, and to place buoys at the entrance of the harbor of Edgartown, and to erect a column of stone on Cape Elizabeth, and to complete the beacons and buoys at the entrance of Beverly harbor, in the State of Massachusetts.

*Be it enacted, &c.*, That the Secretary of the Treasury be and he is hereby authorized, on being satisfied that Boon island, in the district of Maine, in the State of Massachusetts, is a fit and eligible site for a light-house, and that one ought to be erected thereon, to cause a light-house to be built on the said island: *Provided*, That the Legislature of Massachusetts shall vest the property of the said island in the United States, and cede the jurisdiction of the same.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be and he is hereby directed to cause buoys to be placed at or near the main bar, and New Inlet bar off Cape Fear; and also to cause to be erected a beacon on a point of land near New Inlet, in the State of North Carolina.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be and he is hereby directed to cause such buoys as he shall deem necessary, to be placed at the entrance of the harbor of Edgartown, in the State of Massachusetts.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause to be erected a column of stone, as a beacon, on Cape Elizabeth, in the State of Massachusetts, of such form and dimensions as he shall deem necessary.

SEC. 5. *And be it further enacted*, That the following sums of money be and the same are hereby appropriated for the purposes herein mentioned, to wit: For the erection of a light-house on Boon island, three thousand dollars; for placing buoys on the places mentioned off Cape Fear river, two thousand dollars; for placing buoys at the entrance of the harbor of Edgartown, two thousand dollars; for erecting a beacon, one thousand eight hundred dollars; and for erecting a column on Cape Elizabeth, one thousand eight hundred dollars; and for completing the beacons and buoys ordered to be placed near the entrance of Beverly harbor, in the State of Massachusetts, the further sum of three hundred and fifty dollars.

Approved, March 2, 1811.

An Act to extend the right of suffrage in the Indiana Territory, and for other purposes.

*Be it enacted, &c.*, That each and every free white male person, who shall have attained the

age of twenty-one years, and who shall have paid a county or Territorial tax, and who shall have resided one year in said Territory, previous to any general election, and be at the time of any such election a resident of said Territory, shall be entitled to vote for members of the Legislative Council and House of Representatives of the Territorial Legislature, and for a Delegate to the Congress of the United States for said Territory.

SEC. 2. *And be it further enacted*, That the citizens of the Indiana Territory, entitled to vote for Representatives to the General Assembly thereof, may, on the third Monday of April next, and on the third Monday of April biennially thereafter, (unless the General Assembly of said Territory shall appoint a different day,) elect one Delegate for said Territory to the Congress of the United States, who shall possess the same powers heretofore granted by law to the same.

SEC. 3. *And be it further enacted*, That each and every sheriff that now is or hereafter may be appointed in said Territory, who shall either neglect or refuse to perform the duties required by an act, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes," passed in February, one thousand eight hundred and nine, shall be liable to a penalty of one thousand dollars, recoverable by action of debt, in any court of record within the said Territory, one-half for the use of the informer, and the other for the use of the Territory.

SEC. 4. *And be it further enacted*, That any person holding, or who may hereafter hold, any office of profit from the Governor of the Indiana Territory, (justices of the peace and militia officers excepted,) shall be ineligible to, and disqualified to act as a member of the Legislative Council or House of Representatives for said Territory.

SEC. 5. *And be it further enacted*, That each and every sheriff, in each and every county, that now is or hereafter may be established in said Territory, shall cause to be held the election prescribed by this act, according to the time and manner prescribed by the laws of said Territory and this act, under the penalty of one thousand dollars, to be recovered in the manner and for the use pointed out by the third section of this act.

Approved, March 3, 1811.

An Act making appropriations for carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded at Fort Clarke, on the tenth day of November, one thousand eight hundred and eight, and for other purposes.

*Be it enacted, &c.*, That, for the purpose of carrying into effect a treaty between the United States and the Great and Little Osage nations of Indians, concluded and signed at Fort Clarke, on the Missouri, on the tenth day of November, one thousand eight hundred and eight, the sum of five thousand dollars be and the same is hereby appropriated; and the further annual sum of one thousand dollars to the Great Osage nation, and

of five hundred dollars to the Little Osage nation, to be paid annually to the said nations; which annuities shall be permanent.

SEC. 2. *And be it further enacted*, That the sum of six hundred and eighty dollars be, and the same is hereby appropriated, for paying John Eugene Leitzendorfer the sum allowed him by the act passed on the thirteenth day of February, one thousand eight hundred and eleven.

SEC. 3. *And be it further enacted*, That the several sums appropriated by this act, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 3, 1811.

An Act to increase the salaries of the Judges of the Circuit Court for the District of Columbia.

*Be it enacted, &c.*, That, in addition to the compensation heretofore allowed by law to the Judges of the Circuit Court for the District of Columbia, the sum of two hundred dollars per annum be paid to the Chief Justice of the said Court, and the sum of four hundred dollars per annum be paid to each of the Assistant Judges, payable quarter yearly; the first quarterly payment to be made on the first day of April next.

Approved, March 3, 1811.

An Act concerning Invalid Pensioners.

*Be it enacted, &c.*, That the Secretary of War be and he is hereby directed to place the following named persons, whose names have been transmitted to Congress, pursuant to the act of the tenth of April, eighteen hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times hereinafter mentioned, that is to say:

James Trowbridge, at the rate of three dollars and thirty-three cents per month, to commence on the fifth day of February, one thousand eight hundred and ten.

Samuel Mears, junior, at the rate of two dollars and fifty cents per month, to commence on the tenth day of December, one thousand eight hundred and ten.

Ebenezer Brown, at the rate of five dollars per month, to commence on the third day of January, one thousand eight hundred and eleven.

Elisha Capron, at the rate of two dollars and fifty cents per month, to commence on the first day of January, one thousand eight hundred and ten.

William Woodruff, at the rate of five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and ten.

Levi Tuttle, at the rate of one dollar and twenty-five cents per month, to commence on the seventh day of January, one thousand eight hundred and eleven.

Nathaniel Austin, at the rate of three dollars and seventy-five cents per month, to commence on the tenth day of April, one thousand eight hundred and ten.

Isaac Vincent, at the rate of five dollars per

month, to commence on the twenty-second day of March, one thousand eight hundred and ten.

John Griggs, at the rate of two dollars and fifty cents per month, to commence on the seventh day of April, one thousand eight hundred and ten.

Patrick Hart, at the rate of three dollars per month, to commence on the thirtieth day of August, one thousand eight hundred and ten.

William Burke, at the rate of two dollars and fifty cents per month, to commence on the tenth day of October, one thousand eight hundred and eight.

John Long, at the rate of two dollars and fifty cents per month, to commence on the seventeenth day of April, one thousand eight hundred and ten.

Vincent Tapp, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, one thousand eight hundred and ten.

James Batson, at the rate of three dollars per month, to commence on the thirteenth day of February, one thousand eight hundred and eleven.

John Brown, at the rate of two dollars and fifty cents per month, to commence on the first day of December, one thousand eight hundred and ten.

James Campin, at the rate of thirteen dollars thirty-three and one third cents per month, to commence on the twenty-fifth day of March, one thousand eight hundred and nine.

Samuel Wells, at the rate of three dollars and seventy-five cents per month to commence on the twenty-second day of July, one thousand eight hundred and seven.

Daniel McElduff, at the rate of thirteen dollars and thirty-three cents per month, to commence on the twenty-first day of July, one thousand eight hundred and eleven.

Edward Miller, at the rate of five dollars per month, to commence on the third day of May, one thousand eight hundred and nine.

Daniel Fielding, at the rate of three dollars and thirty-three cents per month, to commence on the nineteenth of September, one thousand eight hundred and nine.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein respectively annexed to their names; the said increase to commence at the times hereinafter mentioned, that is to say:

John Lincoln, three dollars per month, to commence on the fifteenth day of June, one thousand eight hundred and ten.

Dan Culver, five dollars per month, to commence on the tenth day of June, one thousand eight hundred and ten.

Joseph Whittemore, ten dollars per month, to commence on the twelfth day of May one thousand eight hundred and nine.

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Peter Hemmenway, five dollars per month, to commence on the eighth day of March, one thousand eight hundred and ten.

Benjamin Mastic, five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Elisha Rice, five dollars per month, to commence on the thirty-first day of March, one thousand eight hundred and ten.

William Bailey, two dollars and fifty cents per month, to commence on the third day of July, one thousand eight hundred and ten.

Jared Knapp, five dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and ten.

Solomon Reynolds, five dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and eleven.

Samuel Loomis, three dollars and seventy-five cents per month, to commence on the seventh day of February, one thousand eight hundred and eleven.

Eleazer Hudson, three dollars and seventy-five cents per month, to commence on the fifteenth day of February, one thousand eight hundred and eleven.

Job Bartram, fifteen dollars per month, to commence on the twenty-fifth day of October, one thousand eight hundred and nine.

George Shell, five dollars per month, to commence on the nineteenth day of December, one thousand eight hundred and ten.

Isaac Richards, two dollars and fifty cents per month, to commence on the fourteenth day of March, one thousand eight hundred and ten.

James Patton, thirteen dollars and thirty-three cents per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Robert Coddington, five dollars per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Isaac Cotheall, five dollars per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Seybert Odam, five dollars per month, to commence on the twenty-seventh day of October, one thousand eight hundred and ten.

SEC. 3. *And be it further enacted*, That John Calhoun be placed on the said pension list, at the rate of fifteen dollars per month, to commence on the sixth day of February, one thousand eight hundred and ten; and that Benjamin Blackburn be placed on the pension list, at the rate of five dollars per month, from the first day of April, one thousand eight hundred and ten.

SEC. 4. *And be it further enacted*, That there be paid, out of any moneys in the Treasury not otherwise appropriated, to Abram Gamble, of the State of Maryland, who was placed on the pension list from the eighteenth day of January, one thousand eight hundred and nine, the sum of fifty-three dollars and seventy-five cents, for arrears of pension from the twenty-fifth day of January, one thousand eight hundred and eight, when he first completed his testimony under an irregular commission, to the said eighteenth day of February,

one thousand eight hundred and nine, being ten months and twenty-three days.

Approved, March 3, 1811.

An Act making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States.

*Be it enacted, &c.*, That for the purpose of completing the fortifications commenced for the security of the ports, towns, and harbors of the United States, and the Territories thereof, there be, and hereby is appropriated the sum of one hundred and thirty-one thousand and forty-six dollars and thirty cents, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1811.

An Act for allowing a reasonable compensation to the persons who have taken an account of the several manufacturing establishments and manufactures within the United States.

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he hereby is authorized, to allow such reasonable compensation as he shall deem adequate, for the services of each of those persons who took, under his direction, in pursuance of an act, entitled "An act further to alter and amend 'An act providing for the third census or enumeration of the inhabitants of the United States,'" an account of the several manufacturing establishments and manufactures within their several districts: *Provided however*, That nothing herein contained shall authorize the Secretary of the Treasury to expend, out of the fund already appropriated for taking the enumeration of the inhabitants of the United States, a sum exceeding thirty thousand dollars.

Approved, March 3, 1811.

An Act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio.

*Be it enacted, &c.*, That in addition to the unexpended balance of the sum heretofore appropriated for laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, the sum of fifty thousand dollars be, and the same is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the President of the United States, in making said road between Cumberland, in the State of Maryland, and Brownsville, in the State of Pennsylvania, commencing at Cumberland; which sum of fifty thousand dollars shall be replaced out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the seventh section of an act passed on the thirtieth day of April, one thousand eight hundred and two, entitled "An act to enable the people of the eastern division of the Territory Northwest of the river Ohio, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes."

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**Sec. 2.** *And be it further enacted,* That the President of the United States be, and he is hereby authorized and empowered to permit such deviations from the courses run and established by the commissioners under the authority of "An act to regulate the laying out and making a road from Cumberland in the State of Maryland, to the State of Ohio," as in his opinion shall be deemed expedient: *Provided,* That no deviation shall be made from the principal points established on said road between Cumberland and Brownsville. Approved, March 3, 1811.

An Act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved February sixteenth, one thousand eight hundred and eleven.

*Be it enacted, &c.,* That the following allowances and compensations shall be made to the several officers appointed for the purpose of ascertaining the rights of persons claiming lands in the Territories of Orleans and Louisiana; which allowances and compensations shall be in full for all their services, including those rendered since their salaries respectively ceased; that is to say: To each of the commissioners, and to each of the clerks of the boards, fifty cents for each claim, duly filed according to law, which remained undecided on the first day of July, one thousand eight hundred and nine, and on which a decision has been made subsequent to that day; or shall hereafter be made, whether such decision be in favor of, or against the claim: which allowance of fifty cents shall be paid at the Treasury of the United States, from time to time, and on receipt of the transcripts of the decisions and of the reports of claims not finally confirmed, as the same may be transmitted by the boards respectively, to the Secretary of the Treasury, according to law. To each of the said commissioners and clerks a further allowance of five hundred dollars, to be paid after the completion of the business of each of the boards, respectively, to the officers then in office. And to each of the translators, at the rate of six hundred dollars a year, and not to exceed in the whole for each the term of eighteen months: *Provided always,* That the abovementioned allowance of fifty cents for each claim decided upon, shall not be made to any of the commissioners who may be absent at the time of such decisions; the attendance of each to be certified by the clerk, or by a majority of the board: *And provided also,* That no allowance shall be made to any agent heretofore employed by the Secretary of the Treasury for any period of time, subsequent to the time when such agent ceased to act, or when the board ceased to receive evidence.

**SEC. 2.** *And be it further enacted,* That the two principal deputy surveyors of the Territory of Orleans shall, and they are hereby authorized, in surveying and dividing such of the public lands in the said Territory, which are or may be authorized to be surveyed and divided, as are adjacent to any river, lake, creek, bayou, or water

course, to vary the mode heretofore prescribed by law, so far as relates to the contents of the tracts, and to the angles and boundary lines, and to lay out the same into tracts, as far as practicable, of fifty-eight poles in front and four hundred and sixty-five poles in depth, of such shape, and bounded by such lines as the nature of the country will render practicable, and most convenient: *Provided however,* That such deviations from the ordinary mode of surveying shall be made with the approbation of, and in conformity with the general instructions which may be given to that effect, by the surveyor of the public lands south of the State of Tennessee.

**SEC. 3.** *And be it further enacted,* That, for the disposal of the lands of the United States lying in the eastern land district of the Territory of Orleans, a land office shall be established at New Orleans; and that for the disposal of the lands of the United States lying south of Red river, in the western land district of the Territory of Orleans, a land office shall be established at Opelousas; and that for the disposal of the lands of the United States lying north of Red river, in the western land district of the Territory of Orleans, a land office shall be established, which shall be kept at such place as the President of the United States may direct. The register of the western land district of the Territory of Orleans shall act as register of the land office of Opelousas, and as one of the commissioners for ascertaining the rights of persons claiming lands in any part of the said western land district. And for the land office north of the Red river, a register, and for each of the said three offices a receiver of public moneys shall be appointed, who shall give security in the same manner, in the same sums, and whose compensations, emoluments, duties, and authority, shall in every respect be the same, in relation to the lands which shall be disposed of at their offices, as are or may be provided by law, in relation to the registers and receivers of public moneys in the several offices established for the disposal of the lands of the United States in the Territory of Mississippi.

**SEC. 4.** *And be it further enacted,* That the powers vested in the President of the United States by the eleventh section of the act, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana,'" passed on the twenty-first day of April, one thousand eight hundred and six, in relation to the public lands, lying in the western district of the Territory of Orleans, and all the other provisions made by the same section, for the sale of said lands, and for obtaining patents for the same, shall be, and the same are hereby, in every respect, extended to the public lands lying in the eastern district of the Territory of Orleans.

**SEC. 5.** *And be it further enacted,* That every person who, either by virtue of a French or Spanish grant recognised by the laws of the United States, or under a claim confirmed by the commissioners appointed for the purpose of ascertain-



ing the rights of persons claiming lands in the Territory of Orleans, owns a tract of land bordering on any river, creek, bayou, or water course, in the said Territory, and not exceeding in depth forty arpens, French measure, shall be entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of his own tract, not exceeding forty arpens, French measure, in depth, nor in quantity of land that which is contained in his own tract, at the same price, and on the same terms and conditions, as are, or may be, provided by law for the other public lands in the said Territory. And the principal deputy surveyor of each district respectively shall be and he is hereby authorized, under the superintendence of the surveyor of the public lands south of the State of Tennessee, to cause to be surveyed the tracts claimed by virtue of this section; and in all cases where by reason of bends in the river, lake, creek, bayou, or water course, bordering on the tract, and of adjacent claims of a similar nature, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land applicable to that object between the several claimants, in such manner as to him may appear most equitable: *Provided however*, That the right of pre-emption granted by this section shall not extend so far in depth, as to include lands fit for cultivation, bordering on another river, creek, bayou, or water course. And every person entitled to the benefit of this section shall, within three years after the date of this act, deliver to the register of the proper land office, a notice in writing, stating the situation and extent of the tract of land he wishes to purchase, and shall also make the payment and payments for the same, at the time and times, which are, or may be, prescribed by law for the disposal of the other public lands in the said Territory; the time of his delivering the notice aforesaid being considered as the date of the purchase. And if any such person shall fail to deliver such notice within the said period of three years, or to make such payment or payments at the time abovementioned, his right of pre-emption shall cease and become void; and the land may thereafter be purchased by any other person in the same manner, and on the same terms, as are or may be provided by law for the sale of other public lands in the said Territory.

SEC. 6. *And be it further enacted*, That the land offices established by virtue of the third section of this act, shall be opened on the first day of January, one thousand eight hundred and twelve, for the sale of all the public lands, with the exception of section number sixteen, of the salt springs, and land contiguous thereto, and of the tracts reserved for the support of seminaries of learning as hereinafter provided, which shall have been previously surveyed, and the surveys thereof returned according to law to the registers of the land offices respectively; and on the first day of February, one thousand eight hundred and twelve, for the sale of such of the public lands, which from the nature of the country cannot be surveyed in the ordinary way, and are embraced

by the provisions of the second section of this act, as shall have, at least six weeks previous to the said first day of February, one thousand eight hundred and twelve, been advertised for sale by the surveyor of the public lands south of the State of Tennessee, with the approbation of the President of the United States. The public sales for the land sub-divided into quarter sections in the ordinary way, shall be held for one calendar month, under the superintendence of the register and receiver of each land office respectively, and of either the surveyor of public lands south of Tennessee, or of his principal deputy surveyor in the district, who shall each receive six dollars for each day's attendance on the same; and no tract of land shall be sold at said public sales for a less price than that which is or may be prescribed by law, for the sale of public lands in the Mississippi Territory. And from and after the first day of February, one thousand eight hundred and twelve, any tract which has been thus offered for sale at public sale, and remains unsold, as well as any tract of land embraced by the provisions of the second section of this act, the sale of which is authorized by this section, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law, for the sale of public lands in the Mississippi Territory. All the lands sold by virtue of this section, shall in every other respect be sold on the same terms of payment, and conditions, in the same manner, and under the same regulations as are, or may be, prescribed by law for the sale of public lands in the Mississippi Territory: *Provided, however*, That in case of an application being made at the same time, for the purchase at private sale of the same tract of land by two or more persons, one of whom did actually inhabit and cultivate such tract of land at the time of passing this act, and still continues to inhabit and cultivate the same at the time of such application, the preference shall be given to the person thus inhabiting and cultivating such tract of land: *And provided also*, That till after the final decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time, and according to law, presented to the register of the land office, and filed in his office, for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans; or which shall have been located by or for Major-General Lafayette, according to law.

SEC. 7. *And be it further enacted*, That in addition to the township already reserved for that purpose by law in the western district of the Territory of Orleans, and which shall be located south of Red river, another entire township shall be located by the Secretary of the Treasury north of Red river, for the use of a seminary of learning, and also an entire township in the Territory of Louisiana, for the support of a seminary of learning within the said Territory.

SEC. 8. *And be it further enacted*, That the Surveyor General shall cause such of the public

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lands in the Territory of Louisiana, as the President of the United States shall direct, to be surveyed and divided in the same manner and under the same regulations and limitation as to expenses, as is provided by law in relation to the lands of the United States northwest of the river Ohio and above the mouth of Kentucky river.

SEC. 9. *And be it further enacted,* That, for the disposal of the lands of the United States lying in the Territory of Louisiana, a land office shall be established, which shall be kept at such place as the President of the United States may direct; and a register and receiver of public moneys shall be appointed for said office, who shall give security in the same manner, in the same sums, and whose compensations, emoluments, duties and authority, shall in every respect be the same, in relation to the lands which shall be disposed of at their office, as are or may be provided for by law in relation to the register and receiver of public moneys in the several offices established for the disposal of the lands of the United States northwest of the river Ohio, and above the mouth of Kentucky river.

SEC. 10. *And be it further enacted,* That the President of the United States be and he is hereby authorized, whenever he shall think proper, to direct so much of the public lands lying in the Territory of Louisiana, as shall have been surveyed in conformity with the eighth section of this act, to be offered for sale. All such lands shall, with the exception of the section "number sixteen," which shall be reserved in each township for the support of schools within the same, with the exception also of a tract reserved for the support of a seminary of learning, as provided for by the seventh section of this act, and with the exception also of the salt springs and lead mines, and land contiguous thereto, which, by the direction of the President of the United States, may be reserved for the future disposal of the said States, shall be offered for sale to the highest bidder, under the direction of the register of the land office and the receiver of public moneys and of the principal deputy surveyor, and on such day or days as shall, by public proclamation of the President of the United States, be designated for that purpose. The sale shall remain open for three weeks, and no longer. The lands shall be sold for a price not less than that which has been or may be fixed by law for the public lands northwest of the river Ohio, and above the mouth of Kentucky river. And shall in every other respect be sold in tracts of the same size, on the same

terms and conditions, as have been or may be by law provided for the lands sold in the State of Ohio. The superintendents of the said public sales shall each receive six dollars for each day's attendance on the said sales. All the lands which have been thus offered for sale, at public sale, remaining unsold at the closing of the public sales, may be disposed of at private sale by the register of the land office, for the same price which is or may be prescribed by law for the sale of public lands in the State of Ohio: *Provided, however,* That, till after the decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been in due time and according to law presented to the recorder of land titles in the district of Louisiana and filed in his office, for the purpose of being investigated by the Commissioners appointed for ascertaining the rights of persons claiming lands in the Territory of Louisiana. And patents shall be obtained for all lands sold in the Territory of Louisiana, in the same manner and on the same terms as is or may be provided by law for land sold in the State of Ohio.

SEC. 11. *And be it further enacted,* That the claim of the corporation of the city of New Orleans, to the common adjacent thereto, and within six hundred yards from the fortifications of the same, as confirmed by the act, entitled "An act respecting claims to lands in the Territories of Orleans and Louisiana," shall be deemed valid, although the relinquishment of the said corporation to any claim beyond the said distance of six hundred yards was not made till after the expiration of the period of six months prescribed by the act last mentioned.

SEC. 12. *And be it further enacted,* That all the navigable rivers and waters in the Territories of Orleans and Louisiana shall be and forever remain public highways.

SEC. 13. *And be it further enacted,* That a sum not exceeding forty thousand dollars be, and the same is hereby appropriated, for the purpose of carrying this act into effect, which sum shall be paid out of unappropriated moneys in the Treasury.

SEC. 14. *And be it further enacted,* That the act entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands in the Territories of Orleans and Louisiana," approved February the sixteenth, eighteen hundred and eleven, be, and the same is hereby, repealed.

Approved March 3, 1811.